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Ontario Energy Board



**E.B.O. 177-06
E.B.R.L.G. 34-12**

**IN THE MATTER OF A JOINT APPLICATION BY
WESTCOAST ENERGY INC.
CENTRA GAS ONTARIO INC.
UNION GAS LIMITED**

**RESPECTING THE IMPLEMENTATION
OF THEIR COMMON MANAGEMENT AND
SHARED SERVICES PROPOSAL**

DECISION WITH REASONS

AUGUST 24, 1994

**Pour des renseignements en français, veuillez communiquer
avec la Commission de l'Energie de l'Ontario**

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EXECUTIVE SUMMARY

E.B.O. 177-06

E.B.R.L.G. 34-12

**DECISION WITH REASONS OF THE BOARD
RESPECTING THE IMPLEMENTATION BY CENTRA AND UNION
OF THEIR COMMON MANAGEMENT AND SHARED SERVICES PROPOSAL**



On April 13, 1994 Westcoast Energy Inc. and its wholly-owned subsidiaries Centra Gas Ontario Inc. and Union Gas Limited jointly applied to the Board in accordance with certain Undertakings relating to affiliate transactions given to the Lieutenant Governor in Council in 1992.

The Applicants requested approval to:

- implement a common management and shared services proposal between Centra and Union in nine functional areas;
- establish a deferral account for each utility to record the costs of implementation for review and disposition by the Board in future rates cases.

The stated purpose of the proposal is to achieve efficiencies and reductions in the total cost of service in the nine functional areas for the benefit of the customers of Centra and Union.

The Board found that the Applicants' estimate of \$14 million in annualized savings is both reasonable and substantially achievable. The Board further found such savings to be substantial in relation to the Applicants' estimate of \$11 million for the one-time proposal implementation costs. In the Board's view such costs are not likely to be exceeded. The Board was of the view that the proposal represents an innovative and practical means of achieving savings for ratepayers and of responding to the Board's requirement that the utilities make productivity gains by working smarter and harder.

The Board believed that this proposal represents the first step towards an eventual merger of the two utilities and approached it on this basis. While the Board approved the common management and shared services proposal it stated that in no way has it approved the amalgamation of the two utilities and that except for the exemptions granted the utilities would continue to be subject to all of the Undertakings. The Board noted that a merger application will not be made for two to three years and may not be made at all if there are roadblocks that prevent it.

The Board noted that the proposal will result in the loss of 106 positions, with a net job loss after early retirements and attrition estimated at approximately 60 jobs. The Board also noted that the Applicants included comprehensive relocation and counselling support and salary continuance provisions as part of the proposal, and that the Applicants throughout the proceedings demonstrated their sensitivity to the fears and anxieties of the employees of the two utilities. The Board has expedited the issuance of its Decision in an attempt to resolve the uncertainty surrounding the proposal as quickly as possible.

The Board was of the view that the planned comprehensive relocation and counselling service and the salary continuance provisions will help to ensure that the proposal will be implemented as humanely as possible.

The Board concluded that the implementation of the proposal should proceed as described. In approving the Application, the Board made a number of directives which are shown in Chapter 6 and relate to:

- the monitoring of the costs and savings of the proposal;
- the roles and responsibilities of the independent committees of the Boards of Directors of Centra and Union;
- the provision of additional information on the analysis of a potential merger;
- the provision of further information on costs, savings and implementation of the proposal; and
- the provision of information on the impacts of announced organizational changes in the Westcoast group of companies.

The Board found that the ultimate disposition of the savings and costs is, of course, a matter for future rates case panels.

August 24, 1994

DECISION WITH REASONS

E.B.O. 177-06
E.B.R.L.G. 34-12

IN THE MATTER OF the Ontario Energy Board Act,
R.S.O. 1990, c. O.13;

AND IN THE MATTER OF an Application by
Westcoast Energy Inc. and its wholly-owned subsidiaries
Centra Gas Ontario Inc. and Union Gas Limited to
implement a common management and shared services
proposal involving affiliate transactions in excess of
\$100,000 and dispensation from compliance with certain
undertakings.

BEFORE: O.J. Cook
Presiding Member

P.W. Hardie
Member

J.C. Allan
Member

DECISION WITH REASONS

August 24, 1994



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1. INTRODUCTION

1.1 THE APPLICATION

1.1.1 By Application dated April 13, 1994 ("the Application"), Westcoast Energy Inc. ("Westcoast") and its wholly-owned subsidiaries Centra Gas Ontario Inc. ("Centra") and Union Gas Limited ("Union"), (collectively "the Applicants") applied to the Ontario Energy Board ("the Board") in accordance with certain Undertakings given to the Lieutenant Governor in Council dated March 19, 1990 and November 27, 1992, respectively ("the Centra Undertakings" and "the Union Undertakings", collectively "the Undertakings"). The Centra Undertakings are shown in Appendix A and the Union Undertakings in Appendix B.

1.1.2 The Application stated that Article 6.3 of the Union Undertakings contemplates that Union and Centra ("the utilities") shall be managed and operated as two separate companies provided that, "where activities of Centra and Union can be combined to produce efficiencies and/or lower costs, one of the companies may provide services to the other company and charge a fair proportion of the costs incurred". The Applicants also stated that other provisions of the Undertakings may restrict Westcoast, Centra and Union from implementing the arrangements referred to in the Application without prior approval of the Board.

1.1.3 The Applicants requested approval to implement shared services between Centra and Union involving affiliate transactions in excess of \$100,000 in the following nine functional areas:

- distribution administration and marketing operations
- management information systems
- gas supply, storage and transportation
- human resources
- finance
- accounting
- legal
- regulatory
- environmental affairs.

Such affiliate transactions require the prior approval of the Board under Article 3 of the Centra Undertakings and Article 6.1 of the Union Undertakings.

1.1.4 The Applicants also sought approval to combine executive positions and functions within Centra and Union in order to implement effectively shared service arrangements between the two companies, notwithstanding Article 6.3 of the Union Undertakings dealing with the separate management and operation of Union and Centra.

1.1.5 Further, Union and Centra each sought approval to establish a deferral account or accounts to record the cost consequences of actions taken in furtherance of the combination of such activities. The balances in such account(s) would be reviewed and disposed of by the Board in the course of future rates proceedings for the utilities.

1.1.6 The Board assigned File Nos. E.B.O. 177-06 and E.B.R.L.G. 34-12 to the Application.

1.2 THE HEARING

1.2.1 On April 20, 1994 the Board issued its Notice of Application. On May 24, 1994 the Board issued Procedural Order No. 1, which established dates for the filing of interrogatory requests to the Applicants and their responses and the filing of evidence by other parties and interrogatories on that evidence.

1.2.2 The hearing of evidence commenced on July 25, 1994 and continued until July 27, 1994. Oral argument-in-chief was presented by Counsel to the Applicants on July 28, 1994. Board Staff and intervenors submitted written arguments on August 3, 1994 and the Applicants filed written reply argument on August 8, 1994.

1.3 APPEARANCES

1.3.1 The following is a list of participants in the hearing and their representatives:

Centra	P.D.S. Jackson
Union	G.F. Leslie
Westcoast	D.G. Unruh
Board Staff	I.A. Blue, Q.C.
The Consumers Gas Company Ltd. ("Consumers Gas")	F.D. Cass
The Corporation of the City of Kitchener ("Kitchener")	A.J. Ryder, Q.C.
Energy Probe	M. Giridhar
Industrial Gas Users Association ("IGUA")	P.C.P. Thompson, Q.C.

Municipal Gas Corporation ("Municipal")	D.M. Brown
The Ontario Hospital Association ("OHA"); and the University Group of South Western Ontario ("UGSWO")	K.L. Beckman J.M. Alati
Pollution Probe	M.J. Klippenstein

1.3.2 The following is a list of intervenors who neither appeared nor submitted argument in these proceedings:

- Mutual Gas Association
- Natural Resource Gas Limited
- Novagas Clearinghouse Ltd.
- TransCanada PipeLines Limited
- Westcoast Gas Services Inc.

1.3.3 A.E. Sharp Limited and A.E. Sharp and Associates Ltd. managed the interventions of OHA and UGSWO respectively.

1.4 WITNESSES

1.4.1 The following witnesses appeared as a panel on behalf of the Applicants:

M.E.J. Phelps	Chairman of the Board and Chief Executive Officer, Westcoast
R.D. Walker	Chairman and President, Centra
J. Bergsma	President and Chief Executive Officer, Union

1.4.2 No witnesses appeared on behalf of any other parties.

1.5 LETTERS OF COMMENT

1.5.1 The Board received two letters of comment in these proceedings. Members of Council for The Corporation of the Town of Hearst requested that Centra be informed of the municipality's support of the Application in the hope that the proposal will indeed result in savings to natural gas customers. The Corporation of the Township of Dawn intervened in this proceeding. It informed the Board that it did not intend to be an active intervenor, but it expressed an interest and requested that it be kept informed. The Board has read these letters and considered them in its deliberations.

DECISION WITH REASONS

2. **THE COMMON MANAGEMENT AND SHARED SERVICES PROPOSAL**

2.0.1 The stated purpose of the Applicants' common management and shared services proposal ("the proposal") is to achieve efficiencies and reductions in the total cost of service for the benefit of the customers of Centra and Union. These efficiencies and reductions are to be accomplished through the sharing of services and management in the nine functional areas outlined in paragraph 1.1.3.

2.0.2 The Applicants proposed a common executive and management for these functions, resulting in a total reduction of 106 positions. With early retirements and attrition due to hiring freezes in effect at the two utilities, it was anticipated that there would be terminations for approximately 60 employees. The position of chief executive officer at each of the two utilities would be held by one individual, who would carry the two titles and the joint responsibility. Mr. Phelps testified that he intends to recommend to the Westcoast Board of Directors that these two positions be held by Mr. Bergsma, currently the president and CEO of Union.

2.0.3 Under the proposal, the common executive and management would report to the separate Boards of Directors of Centra and Union. The majority of directors of Centra's Board and the majority of directors of Union's Board do not overlap. The independent directors on the Boards of Directors of

Centra (2 of 5) and Union (3 of 9) would continue to evaluate affiliate transactions as required by the Undertakings. Centra and Union would remain as separate corporate entities.

2.0.4 The proposal envisages, in addition to the common executive, the sharing by Union and Centra of the services of certain staff members. Technology and certain facilities used in the operation of the utility business, e.g. gas control, would also be shared.

2.0.5 The proposal was the result of a task force established by Westcoast. This task force was comprised of senior management of Centra and Union and was formed to investigate possible savings that might be achieved by a closer operating relationship between the utilities. The task force, in turn, established sub-committees comprised of Centra and Union employees to examine savings and/or efficiencies that could be achieved in specific functional areas. The task force and sub-committees were announced to employees in June 1993.

2.0.6 The task force report recommending implementation of the proposal was presented to the Centra, Union and Westcoast Boards of Directors in March, 1994. The proposal was accepted by the independent directors of Centra and Union and by the three Boards of Directors. The Application was filed with the Board on April 13, 1994. Further detailed planning of the proposal would proceed in the fall of 1994 if the Board were to grant approval of the Application, with implementation scheduled late in 1994 and through 1995.

2.0.7 A further announcement to employees dated May 17, 1994 described the formation of three new strategic business units ("SBUs") within the Westcoast family of companies. A Distribution SBU will encompass Westcoast's distribution utilities in Ontario, Manitoba and British Columbia under the direction of Mr. Bergsma. A Storage, Transportation and Services SBU will include the storage and transportation functions of

Union as they relate to the marketing of storage and transportation to customers beyond Union's franchise area. This latter SBU also includes the corresponding functions of St. Clair Pipelines. Although components of both the Distribution SBU and the Storage, Transportation and Services SBU will be part of Centra and Union, there is no intention to change the corporate structure of either of the utilities.

2.0.8 The SBU announcement was the subject of correspondence between the Chair of the Board and the CEO of Westcoast. After this correspondence, the implementation of the SBU structure as it related to the Ontario utilities was suspended by Westcoast pending the Board's decision on the proposal. The letters between the Chair of the Board and the CEO of Westcoast were filed as exhibits in the hearing.

Positions of the Parties

2.0.9 The Applicants recommended approval of the proposal. In their view, the result of the proposal would be a stronger set of companies. They further submitted that it is reasonably likely that the expected savings to customers would exceed the added costs in both utilities, resulting in savings to residential customers of one to two percent annually.

2.0.10 Kitchener also recommended approval of the proposal as satisfying the affected aspects of the public interest.

2.0.11 Board Staff also recommended approval of the proposal if certain conditions are set by the Board. These conditions are:

- 1. Westcoast undertakes to ensure that the ratepayers of Centra and Union Gas are not unduly burdened by the requirement to re-establish separate operational areas in the event of a sale or disposition of Centra and/or Union.*

2. *The Applicants undertake to have all substantial managerial decisions regarding the shared service arrangements approved by the independent directors of Centra and Union.*

3. *The Applicants undertake to not oppose request for future review of strategic business unit policy impacts on Centra and Union Gas.*

2.0.12 Consumers Gas supported the Application on the basis of the conceptual or summary results filed.

2.0.13 Energy Probe, while supporting the proposal, urged the Board to call for a generic hearing on incentive regulation and suggested that an incentive system that aligns customer and shareholder interests be investigated.

2.0.14 IGUA stated that, if the Board is satisfied that the proposal will benefit Centra, Union and the public interest, the Board ought to grant the pre-approvals sought. IGUA's analysis of the public interest aspects showed no adverse effects and supported the issuance of a decision favourable to Union and Centra. IGUA urged the Board to find that the deferral accounts requested are reasonable and appropriate and should be authorized.

2.0.15 OHA and UGSWO recommended that the Board should either reject the Applicants' proposal or defer a decision and require that the Applicants complete more of the planning and re-file at a later date.

2.0.16 Municipal and Pollution Probe took no position on whether or not the proposal should be approved by the Board. In the event of approval, these parties recommended certain conditions and directions from the Board.

2.0.17 The conditions recommended by Municipal are:

1. *A clarification and reconfirmation [by the Board] that the continuance of a functioning direct purchase market provides benefits to system customers (Direct Purchase Decision 2.2.5) and that in the continuing*

resolution of direct purchase issues, the utility should not act unilaterally or dictate the solutions to those issues (Direct Purchase Decision 2.1.5);

2. *An indication that the merger of the gas supply and marketing departments should be implemented with a view towards developing a strategy which, in the words of Union's interrogatory response, "facilitates" the operation of the direct purchase markets;*
3. *A direction that both Union and Centra in their forthcoming rate cases should each file a detailed assessment of the impact which the implementation of the shared services program will have on the administration of direct purchase arrangements and the operation of the direct purchase market and the steps which the "merged" utility proposes to take to ensure that it acts as a facilitator of direct purchase;*
4. *That both Centra and Union commence working to implement common policies on issues related to the consequences of indexed gas supply contracts, including the frequency of rate adjustments, the frequency of adjustments to the buy/sell reference price and the implementation of a Risk Management strategy; and*
5. *That both Centra and Union file in their forthcoming rate cases the results of this development of a common policy so that the policies can be implemented pursuant to any direction given by the Board in those rate cases.*

2.0.18

The conditions recommended by Pollution Probe are:

1. *That Westcoast/Centra's undertakings be amended to include an energy efficiency undertaking substantially identical to article 9 of the Union undertakings, and that a conservation component [i.e. the words "and conservation"] be added;*
2. *That Westcoast/Centra's undertakings be amended to include a research and development article substantially identical to article 8 of the Union undertakings; and*

3. *That article 6.1 of the Westcoast/Union undertakings, and article 3 of the Westcoast/Centra undertakings, both dealing with affiliate transactions, be amended to include wording substantially identical to that recommended by the Board in E.B.O. 179, or in the alternative, to that adopted by the Lieutenant Governor-In-Council subsequent to that Report.*

2.0.19 In reply, the Applicants submitted that the evidence, and the overwhelming endorsement of the parties in the hearing, substantiated their submissions that the proposal does meet the public interest test and that approval should be granted.

3. ESTIMATED SAVINGS AND IMPLEMENTATION COSTS

3.1 ESTIMATED SAVINGS

3.1.1 The task force established by Westcoast concluded that, after a two-year transition period, there would be potential savings or benefits of approximately \$14 million annually that could be passed on to gas consumers in Ontario as a result of combining certain of the activities of Centra and Union. About 45 percent of the annualized savings would result from an anticipated reduction of approximately 106 positions in the two utilities.

3.1.2 A summary of the expected annualized savings is shown in Table 3.1.

3.1.3 A portion of the savings depends on certain capital expenditures, totalling \$3,650,000, which were not included as part of the implementation costs. These expenditures were identified as follows:

• Automated Mapping/Facilities Management Hardware	\$ 330,000
• Computer Hardware	1,070,000
• In-Truck Terminals	1,500,000
• Computer Terminals	<u>750,000</u>
Total	<u>\$3,650,000</u>

Table 3.1: Summary of Annualized Savings

Operational Area	Reasons for Savings	Annualized Savings (\$000's)
Distribution Operations	<ul style="list-style-type: none"> Reduction of 44 roles (which includes productivity gains) Material purchase savings Advertising & Material Savings Service & Gas Sales Revenue 	2,670 124 191 1,020
	Sub-total	4,005
Information Resources	<ul style="list-style-type: none"> Reduction of 31 roles Lease space cost reduction Software & maintenance savings Bill payment processing savings 	1,640 400 600 60
	Sub-total	2,700
Gas Supply Storage & Transportation	<ul style="list-style-type: none"> Reduction of 14 roles Legal & Consulting savings Centra load factor improvement Gas purchase savings from US - Centra Gas purchase savings from US - Union Systems Licence Fee savings Optimizing Gas Supply Mix 	1,000 200 800 80 80 100 1,500
	Sub-total	3,760
Human Resources	<ul style="list-style-type: none"> Reduction of 4 roles Software & maintenance savings consulting savings 	265 175 500
	Sub-total	940
Finance/Regulatory	<ul style="list-style-type: none"> Reduction of 13 roles System Support savings Consulting/Reporting Savings Research savings 	780 300 1,470 300
	Sub-total	2,850
	Total	14,255
Source: Exhibit C1.55		

3.1.4 One of the Applicants' witness testified that, without the common executive arrangement proposed, "if you squeezed very hard on the managements of the two companies you might achieve savings [without the proposal] that could get as high as half of what is contained in our proposal. In looking at that I think realistically the savings level that you would achieve would be more like one third."

Positions of the Parties

3.1.5 Board Staff noted that Centra and Union are already taking advantage of some limited opportunities to share management services at the operational level. For example, the Manager of Environmental Affairs at Centra also manages Union's environmental office. Similarly, the manager of income taxes and sales tax activities is carrying out a dual management role.

3.1.6 Board Staff submitted that the evidence shows there would be savings available through the approval and implementation of the proposal. It did not dispute the assurances given by Messrs. Phelps, Bergsma and Walker that the estimated \$14.255 million in savings and rate reductions for customers would be achieved. It observed that the evidence lacked detail and precision as to where specific savings would be achieved and that such information would have to await the evidence to be filed in future rates cases for each utility. Board Staff conceded that the evidence of estimated annualized savings in this case does "not appear unreasonable".

3.1.7 It further noted that opportunities also exist to reduce capital commitments as a result of shared services, for example by combining purchasing activities. Board Staff also noted the evidence that savings "resulting from fewer capital commitments amount to approximately \$2 million as a result of these types of shared purchasing activities". It submitted that the net increase in capital expenditures would be \$1,650,000.

3.1.8 Board Staff noted that an estimated \$2.5 million of the projected annual savings of \$14 million would not be realized without the \$3.65 million in capital expenditures referred to above.

3.1.9 In conclusion it submitted that, although some of the expected savings could be achieved through "various management agreements and protocols", maximum savings could only be achieved through the common management proposal.

3.1.10 Board Staff also suggested that the Board has the option of approving the Applicants' proposal without a common executive but stated that the "evidence is uncontradicted that without the common executive in place only one half of the estimated annualized savings proposed would be achieved".

3.1.11 IGUA submitted that the estimated net savings are substantial and that the sharing of the technology and the "best practices" of each utility, together with the reduction of 106 staff positions, irresistibly leads to the conclusion that the benefits of implementing the proposal would far outweigh its costs.

3.1.12 It accepted that, on an ongoing basis, the estimated savings to be achieved through the implementation of the plan would be reflected in the levels of budgeted costs to be presented by Union and Centra in their future rate cases, which would be lower than they would otherwise be without the plan. IGUA accepted that the net savings to be realized would probably be in the order of the estimated amount of \$14 million per annum. It urged the Board to so find.

3.1.13 IGUA also urged the Board to require that the combined costs and benefits associated with the implementation of the plan would be presented by Union and Centra in future rate cases in a manner which would enable the Board and interested parties to monitor and measure the net savings to be

achieved. Further, it urged the Board to direct that the allocation of the costs and savings associated with the implementation of the proposal shall be done in a manner which would be fair and reasonable for each of the utilities and their respective customer classes.

3.1.14 Consumers Gas supported the Application on the basis of conceptual or summary results, subject to the condition that a "post mortem" detailed analysis of the estimated savings and costs supports those used in the Application.

3.1.15 UGSWO and OHA took the position that, although the Applicants have forecast that annual savings of some \$14 million would be achieved, "it appears that there is some uncertainty with respect to these savings." They argued that the Board has insufficient information on either the amount of the savings to be achieved, or the method to be used to ensure that those who pay the costs would realize the savings.

3.1.16 UGSWO and OHA recommended that if the Board accepts the proposal in principle, it should reject the proposed staff reductions and order the filing of specific plans with costs and benefits clearly defined.

3.1.17 Energy Probe accepted the fact that the proposal identified a number of savings in the operations and maintenance areas of both companies and that this would allow savings to be passed on to consumers without affecting shareholder income in any way.

3.1.18 Energy Probe submitted that the exclusion of shareholders from efficiency gains, which is a product of the current regulatory system, can work to the detriment of overall economic efficiency, and thus to the detriment of consumers and the environment. It recommended that the Board call for a generic hearing on incentive regulation.

3.1.19 Energy Probe expressed concern regarding the Applicants' unwillingness to acknowledge the potential for efficiencies in rate base utilization. It provided in argument information from Union's and Centra's most recent fiscal years to demonstrate that a one percent efficiency gain on the capital side would reduce the combined assets of Union and Centra by \$26 million. Assuming a 12 percent rate of return for each company, it argued that this would lead to a significant reduction of \$3 million in the annual revenue requirement of the two utilities and, under the present regulatory regime, a \$3 million reduction in shareholder income. It argued that unless there was some method of compensating shareholders for this decline, such improvements would never be contemplated, even if the resultant decline in rates increased revenue and potential profit by more than the decline in the income to shareholders.

3.1.20 Kitchener submitted that the evidence that customers would benefit in the form of long-term savings was not disputed by any participant in these proceedings. It concluded that this requirement of the public interest has therefore been clearly satisfied.

3.1.21 The Applicants took issue with Board Staff's assertion that "without the common executive in place only one half of the estimated annualized savings proposed would be achieved". They stated that "in fact the evidence is that without the common executive, the Applicants estimate that probably one third and in no circumstances more than one half of the estimated annual savings would be achieved".

3.1.22 With regard to the arguments of UGSWO and OHA relating to insufficient or missing information, the Applicants submitted that neither intervenor asked interrogatories nor cross-examined with a view to specifying what the information gaps were or sought the answers which would fill them.

3.1.23 The Applicants submitted that the duplicative arguments of UGSWO and OHA should be rejected as unhelpful since they repeatedly assert that the

Board is being asked in the Application to approve budgets and expenditure levels, when, as was frequently stated by the Applicants, no such approval is being sought. Rather, those issues are to be deferred, as they properly should be, for examination according to the usual standards, in future individual utility rates cases.

3.1.24 With regard to Energy Probe's argument relating to potential savings due to efficiencies in rate base utilization, the Applicants cited evidence that there are a number of areas in which rate base can be assumed to be used more efficiently. The avoidance of duplicate mainframe computers and development costs for system prototypes were two examples.

3.1.25 The Applicants further submitted that the question of whether or not a generic hearing on incentive rate regulation is appropriate is an issue which is quite separate from this hearing and the result of this Application is in no way tied to that issue. Accordingly, the Applicants took no position on it. They rejected Energy Probe's contention that the evidence shows shareholder unwillingness to recognize efficiencies, describing this contention as a mischaracterization of the evidence to provide some indirect support for a generic hearing into incentive regulation. The Applicants submitted that the evidence indicates that the shareholder has vigorously pursued the efficiencies for ratepayers resulting from the proposal, even though the proposal yields no monetary benefit to the shareholder.

Board Findings

3.1.26 The Board's role in this proceeding, in reviewing the level of savings in operating and maintenance costs, is to determine whether the Applicants' estimate of \$14 million in annualized savings is a reasonable expectation arising from the proposal. The Board agrees with the Applicants that the issue of a generic hearing on incentive rate regulation is not part of this proceeding.

3.1.27 The Board notes that in the area of forecast savings Board Staff and the intervenors generally agree that substantial savings in operating and maintenance expenses are available and achievable. However, certain parties questioned the uncertainty of some of those savings pending the receipt of more detailed information as to the plan of implementation and the quantification of the resulting savings to be expected.

3.1.28 The Board notes the argument of Board Staff relating to the \$2.5 million in annual savings which depend on the utilities' capital expenditures of \$3.65 million and that such expenditures would be subject to the Board's normal rates case review.

3.1.29 The Board is satisfied that the level of estimated annual savings as projected by the Applicants is both reasonable and substantially achievable. The Board further finds such savings to be substantial in relation to the one-time projected implementation costs and urges the Applicants to strive to achieve such savings.

3.1.30 The Board directs the utilities to closely monitor the savings from the proposal so that the reasonableness of the net operating and maintenance costs can be reviewed in the course of the rates proceedings. In this review, the Board will examine the justification for the expenditure of any capital costs related to the proposal, including the sources of the savings due to the capital cost expenditures.

3.1.31 The Board disagrees with the recommendations of UGSWO and OHA that, in the event of approval in principle by the Board, the staff reductions associated with the proposal should be delayed until additional details and plans become available. In the Board's view delaying implementation of the associated staff reductions would not be in the public interest since much of the savings, and hence the benefits to customers, are a direct result of the staff reductions.

3.1.32 The Board finds that, given the need to provide justification for savings and costs, including implementation costs, before such amounts can be included in the costs of service and recovered in rates, no separate "post mortem" report is required. The Board cautions the Applicants that the approvals sought are approvals in principle only and that the incorporation of the costs and savings in rates will require the approval of the Board in subsequent rates cases.

3.2 IMPLEMENTATION COSTS

3.2.1 The utilities estimated approximately \$11 million of non-recurring costs would be incurred in order to achieve the projected savings. The nature of these costs is such that most of them will be expended before the benefits begin to be realized. Approval of direct expensing of these costs for accounting and ratemaking purposes would result in rate increases for the customers of Union and Centra. Consequently, the utilities proposed to record such costs in a deferral account for each utility and to amortize those costs based on the forecast benefits.

3.2.2 A summary of the one-time implementation costs is shown in Table 3.2.

3.2.3 Approximately \$6.6 million of the \$10.7 million implementation costs are costs associated with the reduction of 106 staff positions. Such costs include relocation, severance, counselling and retraining. Severance payments made by means of salary continuation are excluded from this cost estimate.

3.2.4 Board Staff submitted that the cost estimates of the proposal identified in Table 3.2 appear to be "not unreasonable on an aggregate level. A more precise investigation of these costs will [be] undertaken in the respective rate cases where the accuracy and legitimacy of the costs will be tested."

Table 3.2: Summary of Implementation Costs

Operational Area	One-Time Costs (\$000's)
Relocation/Severance/Outplacement/Counselling	6,100
Retraining and Alignment	500
Employee Survey - Centra Ontario	100
Customer Satisfaction Baselineing	300
Consulting - Integration	400
Communication	500
Compensation & Benefit Studies	600
Corporate Administration	800
Accounting Allocation System	300
OEB Hearing (See Note)	500
Contingency	600
Total One-Time Costs	10,700

Source: Exhibits C1.20 and E5
Note: Amended by Applicants during the hearing from \$800,000 to \$500,000

3.2.5 Board Staff identified \$600,000 included in relocation costs as contingencies which "seemed excessive considering that the average relocation cost per relocated employee is only \$40,000". It also submitted that the additional \$600,000 of contingency costs identified separately in Table 3.2 was excessive and concluded therefore that the combined provision for contingency costs of \$1,200,000 seemed "rather high".

3.2.6 UGSWO and OHA took issue with the average cost of \$57,547 per employee and recommended that the Board should limit "personnel downsizing to an average cost of \$42,233 per role/person." This would reduce the \$6.1 million cost shown in Table 4.2 to approximately \$4.5 million.

3.2.7 These intervenors also recommended that the Board order Centra and Union to file plans in their next main rates hearings, showing the proposed reduction in personnel, the functions being reduced, and the cost reduction being achieved. UGSWO also suggested that the Board should consider issuing guidelines for this downsizing.

3.2.8 UGSWO and OHA recommended that the Customer Satisfaction Baseline cost of \$300,000 to perform a study on Centra's customers, in order to place that utility on an equal basis with Union, be rejected by the Board as a component of the implementation costs of the proposal. They argued that, if such a study is necessary, Centra's customers should pay for it since Union's customers have already paid for a recent and similar study.

3.2.9 The Applicants noted in reply argument that they are not now seeking Board approval to recover the amount for implementation costs. Rather, they have endeavoured to ensure that such costs have not been understated. Even if Board Staff's suggestion that the \$1.2 million of contingency costs (\$600,000 included in relocation costs plus \$600,000 shown as contingencies) are on the high side were correct, it should only contribute to the confidence, which Board Staff generally shares, that the benefits justify the costs.

Board Findings

3.2.10 In reviewing the \$10.7 million of one-time implementation costs the Board is mindful of the Applicants' proposal that such costs will be deferred and subject to the review by the Board and other parties in the future rate cases of Centra and Union. At that time, the issue of the prudence of the quantified costs, as well as their disposition, amortization and recovery in rates will be fully explored. In particular, the Board cautions that the evidence submitted in this hearing in relation to the employee and customer baseline surveys for Centra would not likely satisfy the burden of proof necessary to justify their inclusion of these costs in rates.

3.2.11 The Board in this proceeding must decide whether the costs proposed form a reasonable picture of probable cost incurrence to be ultimately matched for accounting purposes with the expected savings to be achieved after implementation of the proposal.

3.2.12 The Board finds that the estimated costs, as set out in Table 3.2 in the amount of \$10.7 million, are unlikely to be exceeded.

3.2.13 The Board also finds that the actual costs incurred must be closely monitored by Union and Centra, so that their reasonableness and eligibility for recovery in the utilities' rates can be determined in the relevant rates proceedings.

4. IMPACTS AND APPROPRIATENESS OF THE PROPOSAL

4.1 APPROPRIATENESS OF THE PROPOSAL

4.1.1 Three alternatives to the proposal were considered by the Applicants. Two of these, continuation of the status quo and incorporation of a joint services company, were rejected as being more costly than the proposal, without any additional benefits. Under the joint services company alternative, a third corporate structure would be set up, independent of either of the two utilities. This separate entity would contract to deliver common functional services to each utility.

4.1.2 The third alternative was a full merger or amalgamation of the two utilities. A number of legal and technical constraints were identified that would prevent the implementation of a merger or amalgamation at this time, including: capital structure; cost allocation and rate integration issues; income tax accounting; and rationalization of the different utility fiscal years. The Applicants are continuing with their analysis of the legal and technical issues and anticipate filing a merger application within two to three years, unless their review shows that a merger cannot proceed for some reason. The Applicants testified that proceeding with the proposal now would allow significant savings to the ratepayers to be achieved, pending a resolution of the merger question.

Positions of the Parties

4.1.3 Board Staff submitted that the proposal would make "Centra and Union one uniform whole pursuing a common direction and common decisions except where franchise areas may have different interests". In its opinion, however, the proposal is not legally an amalgamation and therefore an application under section 26 of the *Ontario Energy Board Act* ("the Act") is not required.

4.1.4 Board Staff further submitted that the proposal would diminish the value of the individual utilities due to the loss of separate and distinct management teams. It recommended that the Board impose a condition on Westcoast that, in the event of future sale of either utility, the ratepayers of Centra and/or Union would not be unduly burdened with the costs of restoring separate managements.

4.1.5 Since the joint services company would require additional management personnel, Board Staff submitted that the proposal is likely to be more efficient. Board Staff further submitted that in view of the common ownership of Centra and Union, synergies might be better achieved, and savings maximized, by a full merger of the two utilities. However, it recognized that this could not be achieved without some difficulty and would likely be time consuming. Board Staff recommended that comprehensive evidence on the merger option should be presented to the Board as soon as possible, including a report to the Board by the Applicants on their intention to proceed with the merger option.

4.1.6 IGUA submitted that the proposal is clearly responsive to the productivity directives contained in the Board's decisions in previous cases. In its view, it would unreasonable, in the context of these directives, to deprive Centra and Union of the opportunity to achieve \$14 million per annum of productivity and efficiency benefits through the implementation of the proposal.

4.1.7 IGUA considered the joint services company alternative to be more cumbersome and costly than the proposal. It submitted that the only other alternative is amalgamation. In its view, the fact that the proposal may turn out to be a first step towards amalgamation ought not to deter the Board from approving the proposal. IGUA took the position that implementation of the proposal would expeditiously deliver substantial annual benefits to the customers of Centra and Union without the delays that would likely be encountered if the delivery of such benefits were tied to an amalgamation application.

4.1.8 Kitchener considered a merger or amalgamation to be the only realistic alternative to the proposal. In its view, there is a real advantage in proceeding with the proposal as opposed to a formal merger, i.e. if the sharing of services does not work, it can be easily reversed. Kitchener submitted that the proposal is the approach of least risk and, as such, should commend itself to the Board.

4.1.9 In reply to Board Staff, the Applicants submitted that it is clear that the present proposal is not an amalgamation. They noted their intention to report to the Board on the merger option as soon as is reasonably possible, taking into account that they will also be concentrating on detailed planning and implementation of the proposal and dealing with the related employee issues. The Applicants stated that they expect a proper study of merger issues would require a minimum of two years.

4.1.10 The Applicants further submitted that the evidence contradicts Board Staff's assertion that the value of either utility would be reduced due to the implementation of the proposal. The Applicants considered the condition proposed by Board Staff to be inappropriate, unnecessary and impractical.

Board Findings

4.1.11 The Board is of the view that the proposal represents an innovative and practical means of achieving savings for ratepayers and of responding to the Board's requirement that the utilities make productivity gains by working smarter and harder.

4.1.12 The Board believes that the proposal represents the first step towards an eventual merger of the two utilities and has approached it on that basis. However, the Board is no way endorsing an amalgamation at this time and it has not considered the broader public interest aspects of an amalgamation in this proceeding.

4.1.13 The Board notes the evidence that a merger application would not be forthcoming for two to three years and may not be made at all if there are roadblocks that prevent it. Accordingly, the Board directs the Applicants to file a progress report with the Board every six months, or more frequently as decisions are made, describing the status of the analysis undertaken to date and the current status of the implementation plan for a merger.

4.1.14 The Board is also of the view that the proposal is superior to the alternatives of the status quo and the joint services company from the point of view of cost and efficiencies.

4.1.15 With regard to the recommendation by Board Staff, that the Board impose a condition on Westcoast that, in the event of future sale of either utility, the ratepayers of Centra and/or Union would not be unduly burdened with the costs of restoring separate managements, the Board is of the view that these costs would most appropriately be dealt with by a future panel of the Board which would rule on these matters in the event such sale materializes.

4.2 DECISION-MAKING AUTHORITY

4.2.1 Under Article 2 of the Union Undertakings, a separate committee of the Board of Directors of Union, comprised of the independent directors, has the responsibility to review and approve, if appropriate, all affiliate transactions between Union and any of the Westcoast affiliates. Although there is not a similar formal committee structure in the Centra Undertakings, the independent directors of Centra have similar review and approval responsibilities.

Positions of the Parties

4.2.2 Board Staff submitted that the removal of the CEO from Centra and the replacement of that office with an executive from Union would be a fundamental shift in the existing long-standing arrangement of executive responsibility at the two utilities. Board Staff agreed with the Applicants that shared services will strengthen the lines of authority and therefore the direction of the integrated distribution operations. However, it was concerned with the resolution of conflicts between the interests of the ratepayers of the two utilities and recommended that the Applicants undertake to have all substantial management proposals, both initial and future, reviewed by Union's committee of independent directors and by a shared services committee of Centra's independent directors, both of which have veto power.

4.2.3 OHA and UGSWO submitted that the Board should ensure consistency in the matter of independent directors and direct Centra to have the same proportion of independent directors as Union has on its Board of Directors. They further submitted that the Board should also require that the two committees of independent directors be empowered to act as an arbitration committee to assist the management of Centra and Union and to protect the customers' interests whenever dispute resolution is required.

4.2.4 IGUA submitted that the implementation of the proposal would have no adverse effects on the corporate decision-making process. It noted the successful operation of a shared services arrangement between commonly-owned utilities in Alberta.

4.2.5 Kitchener noted that the major conflicts of interest that arise in the operation of utilities are those between the rate classifications and that this situation would not change under the proposal. In its view, conflicts of interest between the two companies would be eliminated by a reorientation in the approach of management, with management being trained to consider the competing interests of all customers of both utilities. Kitchener submitted that it can see no drawback to this change.

4.2.6 The Applicants rejected Board Staff's recommendation that all management proposals be reviewed by the independent directors of the two utilities as not practical or necessary, since there would be innumerable daily management decisions that would be need to be reviewed if this recommendation were accepted. The Applicants stated that they intend that the specific implementation plan, which would be developed if the Application is approved, would be reviewed by the independent directors of each Board of Directors, and that each year, the annual budgets of the shared functional areas and the allocation of these budgets to each utility would be similarly reviewed. In all of these reviews, the Applicants reiterated that the independent directors would have veto power.

Board Findings

4.2.7 The Board notes that the review of affiliate transactions and, in particular, the roles and responsibilities of the independent directors was the most contentious issue in this proceeding. The Board accepts that the existing management of each utility has significant experience in accommodating the interests of the various rate classes and the Board believes that this experience will be invaluable in ensuring that the ratepayers of one utility

do not suffer at the expense of the ratepayers of the other utility. In this regard, the Board is particularly interested in the performance objectives that will be set out for the common management of the shared functional areas. The Board directs the utilities to review the performance objectives of each member of the common management team and to ensure that the objectives of each of these managers reflect that manager's obligations to the ratepayers of each utility.

4.2.8 The Board is of the view that formalization of a Centra independent committee would be the most appropriate way of ensuring adequate internal review of affiliate transactions. The Board directs Centra to file a proposed procedure establishing a formal committee of independent directors following the requirements of Articles 2.3 to 2.5 of the Union Undertakings. The Board also directs Centra and Union to file with the Board's Energy Returns Officer any reports of the committees of independent directors related to their monitoring and management of affiliate transactions. In making these findings, the Board is cognizant of the veto power of the independent directors.

4.2.9 The Board has considered the recommendation of Board Staff that the Applicants undertake to have all substantial management proposals, both initial and future, reviewed by the independent directors and believes that this condition is not necessary since the independent directors will be reviewing the initial implementation plan for the proposal, the annual shared service budgets and the allocation of these budgets to the two utilities.

4.3 IMPACT ON DELIVERY OF SERVICES AND CHANGES IN CORPORATE POLICIES

4.3.1 The Applicants testified that the proposal is designed to draw on the "best practices" of the two utilities. They stated that most of the changes in the delivery of services would be undertaken at Centra. In-truck terminals would increase the productivity of service personnel. Gas supply would be acquired at lower costs due to the economies of scale brought about by combining purchases for the two utilities. Gas dispatch would be optimized by the concentration of the control functions in one location. Centra's personnel would also have the benefit of Union's training facility.

Positions of the Parties

4.3.2 The Applicants noted that under the proposal, a single CEO and common management would manage the combined operations of Centra and Union. In their view, the combined operation would be similar in scale and scope to that of Consumers Gas, which has a single CEO and management.

4.3.3 Board Staff submitted that shared services would primarily benefit Centra by replacing and expanding its customer information systems and the ability to improve services through in-truck terminals and training.

4.3.4 Board Staff further submitted that it is becoming apparent that there is an increasingly complex cross-linking between Westcoast, Union and Centra. In its view, this interrelationship requires the Board to test in the individual rates cases whether the impacts would be negative, positive or distributional in nature. Therefore, Board Staff submitted that the Board should reserve the right at future rate hearings to ask for evidence on SBUs in order to determine their policy effect on the Ontario utilities.

4.3.5 IGUA took the position that the sharing of "best practices" and technology would likely improve the delivery of services by each utility. IGUA

submitted that the proposal is not likely to affect the corporate strategies and policies of either Union or Centra. In its view, to the extent that the implementation of the proposal stimulates Union and Centra to adopt common strategies and policies, the proposal would serve the public interest because it is desirable for gas utilities in Ontario to be guided by consistent policies.

4.3.6 Kitchener submitted that it was unable to identify, based on the evidence to date, any service that is currently provided by Union which would be prejudiced by the proposed changes. In its view, the sharing of "best practices" of both Centra and Union and the use by Centra of the greater technological support of Union can only result in an improvement in service to both sets of customers.

4.3.7 OHA and UGSWO recommended that the Board direct each Applicant to identify the best systems and practices that it would adopt and develop an estimate of the cost, and identify the customers who paid for the development and implementation. They submitted that this review should propose some form of accounting for such costs to ensure that the customers' interests are protected. They further submitted that evidence should be required to demonstrate that the level of service in all areas, before and after implementation of shared services, has either improved or remained constant. OHA and UGSWO noted the different buy/sell reference prices for the two utilities and urged the Board to closely examine and control any changes from the current practices in the gas supply functions.

4.3.8 Municipal submitted that a single gas supply and marketing function administering the direct purchase arrangements of both utilities is of concern, especially in respect of corporate strategies that such a group would adopt regarding the sizeable direct purchase market in Ontario. Municipal recommended conditions on any approval of the Application to ensure that the implementation of the proposal would facilitate direct

purchase markets and to clarify and reconfirm certain of the Board's findings in its April 27, 1994 Decision on Issues relating to the Direct Purchase of Natural Gas ("the Direct Purchase decision"). These conditions are shown as conditions 1 to 3 in paragraph 2.0.17.

4.3.9 Municipal also expressed concern that the Board's approval of the proposal, if granted, might result in a delay in dealing with the issues arising in the Board's Joint Partial Decision with Reasons - Cost of Gas dated February 15, 1994 ("the Joint Cost of Gas Decision"). Therefore, Municipal proposed that the Board direct Centra and Union to develop common policies on issues related to the consequences of indexed gas supply contracts and file such policies in their next rates cases. (conditions 4 and 5 in paragraph 2.0.17)

4.3.10 In reply to Board Staff, the Applicants submitted that the Board has the jurisdiction to require evidence with respect to any matter that properly falls within the scope of its broad jurisdiction. In their view, to the extent that this proposal contemplates matters within the Board's jurisdiction, the Board does not need to reserve its rights to preserve or exercise its jurisdiction.

4.3.11 In reply to OHA and UGSWO, the Applicants noted the evidence that the gas supply contracts that underlie the buy/sell reference prices would not be merged and there is no contemplation of merging the rate structures of the two utilities.

4.3.12 The Applicants also regarded as unhelpful UGSWO's and OHA's arguments that the Board delay its decision because of these intervenors' unspecified and undemonstrated concern, contrary to the evidence, that there would be some adverse effect on customer service.

4.3.13 In reply to Municipal, the Applicants submitted that there is nothing in the Application that would require a reiteration of what the Board has already

said with respect to direct purchase matters, or an attempt to pre-judge the outcome of ongoing discussions on outstanding matters. The Applicants urged the Board to disregard Municipal's submissions.

Board Findings

4.3.14 The Board has considered the Applicants' contention that the common management under the proposal would be managing an operation similar in scale and scope to that of Consumers Gas which is under one management. Table 4.1 compares certain statistics for the three utilities. The Board agrees with the Applicants that an operation of this size can be managed effectively and efficiently by a common management. However, the Board notes that the common management would face the additional complexities of applying differing corporate policies over a large geographic area.

**Table 4.1: Selected Statistics - Major Ontario Gas Utilities
(most recent fiscal years)**

	Centra	Union	Total	Consumers Gas
Number of customers	214,309	684,650	898,959	1,159,982
Number of employees	829	2,585	3,414	3,711
Volume of throughput (10 ⁶ m ³)	3,747	8,368	12,115	10,967
Operating revenue (\$000's)	590,712	1,429,400	2,020,112	1,748,569
Total assets (\$000's)	848,400	2,432,300	3,280,700	2,561,481
Source: Annual Reports for year ended	Dec.31/93	Mar.31/94	--	Sept.30/93

4.3.15 With respect to the submissions of Municipal, the Board notes its comments in the Direct Purchase decision:

The Board is impressed with the voluntary efforts made by participants to reach accommodations among themselves ... The Board, has therefore, concluded that it would be preferable for the parties to continue to attempt to reach a resolution of these issues through consultation and negotiation, rather than have solutions imposed on them by the Board.

The Board is of the view that this consultation will continue regardless of whether or not the Board approves this Application and accordingly, the Board does not believe that the conditions recommended by Municipal are necessary.

4.3.16 The Board encourages the Applicants' commitment to share "best practices", but notes that the sharing of "best practices" may lead to changes in policies. The Board accepts the Applicants' evidence that no changes to current policies and procedures are planned under the proposal at this time. However, the Board is of the view that consistent policies should be developed in the two utilities. Therefore, the Board directs each utility to bring forward and justify, at its respective rates cases, the appropriate changes in policy and practices.

4.4 IMPACT ON EMPLOYEES, MUNICIPALITIES AND LANDOWNERS

4.4.1 The Applicants indicated that the proposal would result in the relocation and termination of a number of employees. A total of 106 positions would be eliminated and a number of employees in Chatham and North York may be asked to relocate. The current expectation is that there would be one gas control centre, although a back-up capability may be maintained at the other gas control centre. This may result in personnel transfers between Centra's North Bay and Union's Chatham gas control centres.

4.4.2 The utilities testified that it would be their policy that every effort will be made to find meaningful employment for all employees whose roles become redundant as a result of the implementation of the proposal. These

employees will be regarded as available for other positions within Centra and Union. The objective in implementing shared services would be to match, where acceptable to the employees, their skills and qualifications to existing vacancies elsewhere within the two companies. The utilities anticipate that most redundancies can be dealt with through relocation or attrition. Hiring freezes have already been implemented in both utilities.

4.4.3 Overall, there is expected to be a small increase in the number of positions in Chatham and a decrease in departments and positions in North York. In North Bay, there would be increases and decreases, with the net positions "not too different from where they are now".

4.4.4 The Applicants indicated that Centra would continue to have a head office, but whether the head office would continue to be located at its current facility in North York is something that would be reviewed.

4.4.5 The utilities described the consultations they have had with the municipalities that contain their head offices. Union has discussed the proposal with the political leaders in Chatham. Centra had sent the Application to the City of North York and filed a letter from the City Clerk, which indicated that the Application had been forwarded to North York City Council. Neither North York nor Chatham were represented at the hearing.

Positions of the Parties

4.4.6 The Applicants submitted that, given the magnitude of the savings to customers and the impact that any productivity initiative would have on employee levels, some employee dislocation cannot be allowed to stand in the way. However, the Applicants submitted that the Board should be comforted by the knowledge that every effort has been made and will be made to treat employees as candidly and as fairly as possible. In the Applicants' view, there will also be a positive impact on the employees

who would remain with the utilities due to the strategic strengthening of both companies that would result from the sharing of the very best of the two companies.

4.4.7 IGUA noted that the reduction of 106 positions represents a reduction of approximately three percent of total staff, a modest downsizing in today's economic circumstances.

4.4.8 OHA and UGSWO took the position that the Applicants have not discharged the burden of proof necessary to show that the proposal is not a direct result of the Westcoast takeover of Union. They raised the concern that the job reductions in the proposal are a violation of Article 4.1 of the Union Undertakings and submitted that no changed circumstances have been demonstrated that could justify the modification or circumvention of this Undertaking.

4.4.9 Board Staff agreed with the Applicants that relief is not required from Article 4.1 of the Union Undertakings. It submitted that there are no outstanding municipality or landowner concerns associated with the Application at this time.

Board Findings

4.4.10 The Board notes that the proposal would result in the loss of 106 positions, with a net job loss after early retirements and attrition estimated at approximately 60 jobs. The Board also notes that the Applicants included comprehensive relocation and counselling support and salary continuance provisions as part of the proposal, and that the Applicants throughout the proceedings demonstrated their sensitivity to the fears and anxieties of the employees of the two utilities. The Board has expedited the issuance of this Decision in an attempt to resolve the uncertainty surrounding the proposal as quickly as possible.

4.4.11 The Board believes that the proposal is consistent with the job protection provisions of the Centra and Union Undertakings. The Board agrees with IGUA's submission that the proposal represents a modest downsizing of the two utilities. The Board is of the view that the planned comprehensive relocation and counselling service and the salary continuance provisions will help to ensure that the proposal will be implemented as humanely as possible.

4.4.12 The Board is also of the view that consultations to date with the affected municipalities have been adequate and encourages the utilities to formally provide information to the affected municipalities on net employee levels as soon as such information becomes available.

4.4.13 The Board notes that no party submitted that there are outstanding issues with respect to landowner concerns. The Board also notes that no changes are currently anticipated in the policies of the utilities relating to landowner concerns. The Board finds that landowner concerns are unaffected by the approval of the Application.

DECISION WITH REASONS

5. REGULATORY ISSUES

5.1 IMPACT ON CURRENT REGULATORY PROCESS

5.1.1 In their pre-filed evidence, Centra and Union stated that they did not anticipate any fundamental change to the regulatory process as a result of the implementation of the proposal. They proposed that each utility would file a separate rate case application which would incorporate the impact of the proposal. In addition they anticipated that a joint panel of the Board from each utility's rates case would review the cost of service impacts on each utility.

5.1.2 During the course of the hearing, witnesses for Union and Centra testified that if the Board approved the proposal the utilities would file detailed plans on the proposal before the end of the current rates cases and in any event before the end of this calendar year. They foresaw that Centra's rates case would proceed first, then Union's, and that a joint panel from the two rates cases could hear evidence on the proposal toward the end of Union's rates case or after its conclusion. They envisioned that the final decisions on both rates cases would include the impact of the proposal.

5.1.3 Witnesses for both utilities testified that the bulk of the one-time costs of the proposal would be incurred in calendar 1995. However some costs would be incurred in calendar 1994.

Positions of the Parties

5.1.4 The utilities argued that while in the short term there might be "some minor dislocation" to the regulatory process, in the long term the utilities would take steps to streamline the process such by holding a common rate case hearing. The utilities submitted that in the longer term there would not be increased regulatory costs as a result of the implementation of the proposal.

5.1.5 IGUA, Kitchener and Municipal all argued that the proposal, if approved, would not impact negatively on the regulatory process.

5.1.6 Board Staff argued that the proposal would "lead to a more complex, time consuming and costly regulatory process", for example, parties may have to intervene in both rates cases to properly present their submissions. In addition, it argued there may be a legal requirement that one panel of the Board hear all issues relating to both utilities.

5.1.7 In reply the utilities argued that there was no basis for the assertion that the approval of the proposal would lead to a more costly, complex and time consuming regulatory process. On the contrary they argued that there is a possibility that the regulatory process might become less costly since some common matters would only need to be reviewed once rather than in each separate rate hearing. In addition they argued that Board Staff's submission that intervenors would have to participate in both rates cases was wrong. They cited the examples of the Joint Cost of Gas and Direct Purchase hearings where parties only needed to intervene in the joint proceedings in order to advance their views.

Board Findings

5.1.8 At the present time when a utility files an application with the Board, a panel of the Board generally consisting of three members hears the

application. Thus two separate panels of the Board would hear rates applications by Centra and Union. However, the Board has combined panels to hear issues common to more than one utility, for example, the Direct Purchase hearing and the Joint Cost of Gas hearing. The Board's decisions in those proceedings were subsequently incorporated to the extent appropriate and necessary in each utility's rates case decision by the panel of the Board hearing that particular rates case. This combining of hearings is also provided for in the Board's Draft Rules of Practice and Procedure.

5.1.9 Based on the above, the Board finds that there are no procedural or legal reasons that would preclude proceeding as the utilities propose. However, the Board agrees that in the short term the process may be more costly and time consuming. For example, initially the allocation of the costs and benefits of the shared services will require considerable scrutiny. On the other hand, the Board envisages that there may be savings from common hearings on such matters as demand-side management and cost of gas issues.

5.1.10 The Board notes that Centra has pre-filed evidence on its 1995 fiscal year rates case which does not include the impact of the proposal. Similarly Union intends to pre-file evidence with respect to both its 1995 and 1996 fiscal year rates that does not include the impacts of the proposal.

5.1.11 The Board, therefore, directs the utilities to file revised evidence in the rates cases incorporating the costs of the proposal as soon as possible but, in any event, before the conclusion of each rates case.

5.1.12 The Board also directs the utilities:

- to closely monitor the cost and time involved in managing the regulatory process to accommodate the proposal;

- to report the results of this monitoring and the problems that were encountered in the subsequent rates cases for each utility; and
- to work towards streamlining the regulatory process in order to lessen the associated cost and time involved in each utility's rates case proceedings; and to report on this planning in each subsequent rates case.

5.2 ALLOCATION OF COSTS AND BENEFITS

5.2.1 The utilities did not describe in the Application how the costs and benefits of shared services would be allocated between the ratepayers of the two utilities. It was Centra's and Union's position that experience with shared services was required before such a proposal could be presented. However, they stated that they follow the general principles of cost allocation cited below. Where costs or benefits were not proportionally realized between the two utilities an intercompany charge would be utilized to ensure that the accounting records of each utility reflect an appropriate sharing of such costs or benefits.

5.2.2 The principles that the utilities would adopt for the allocation of the costs of the shared management costs are:

1. *Specific identification of costs and revenues, where feasible and practical. Where appropriate and efficient, human resources and systems will be dedicated in each company, thereby reducing the level of allocations.*
2. *Both Centra and Union will participate in the benefits and costs.*
3. *The ceiling for the allocated costs will be the cost of the service currently being incurred by the company receiving the shared service.*
4. *The floor for the allocated costs will be the incremental cost of providing the shared service.*

5. *Currently established, and OEB accepted, techniques will be used where appropriate.*

5.2.3 Examples of the possible cost allocation methodologies discussed in the hearing were techniques based on: an equal split; the respective number of customers; the size of the respective rate bases; the respective volumes; and using time sheets.

Positions of the Parties

5.2.4 In their argument the utilities distinguished between the one-time costs associated with the implementation of the shared services and the on-going determination of the costs and benefits of the shared services.

5.2.5 It was the utilities' position that the one-time costs would be appropriately dealt with in a deferral account for each company.

5.2.6 The utilities submitted that costs would only be assigned where there was an off-setting benefit and that the costs and benefits would be reflected in each utility's cost of service.

5.2.7 UGSWO and OHA argued that the Board has insufficient information to determine whether the cost allocation process would ensure that those who pay the costs would receive the benefit. UGSWO recommended that the Board either reject the application or not approve the proposal until it receives more detail on the cost allocation process. In addition, it recommended that the Board require the utilities to file further evidence citing examples of other regulatory approvals of shared service arrangements and their relevance to the utilities' proposal.

5.2.8 Consumers Gas argued that, to the extent that shared services are provided to other Westcoast companies, the cost should be deducted from the costs to be shared by Union and Centra.

5.2.9 Consumers Gas also argued that costs and savings should be allocated on the same basis. It was Consumers Gas' conclusion that the failure to allocate costs and savings in the same manner could lead to "perverse results". Consumers Gas urged the Board not to approve a cost allocation that would lead to inequities in the sharing of costs and benefits among customers.

5.2.10 IGUA argued that the proposal to present the allocation of costs and benefits in future rates cases was reasonable. However, IGUA suggested that the Board might want to direct the utilities to use the same allocation methods.

5.2.11 Kitchener submitted that the lack of detail on the determination and allocation of costs and benefits did not detract from the overall advantages of the proposal.

5.2.12 Board Staff argued that there was insufficient evidence on which to base a conclusion on the optimal allocation of costs and benefits. It argued that savings could not be achieved without the participation of both utilities yet the unequal distribution of costs and benefits could be substantial. As a result, the strict application of the cost causality principle may not reflect the interests of both utilities, especially Centra. Therefore it argued the risk of the Board's not allowing certain costs to be recovered should be borne not only by the shareholders of the utility in question but also by the shareholders of Westcoast.

5.2.13 In their reply argument the utilities submitted that the evidence showed that the benefits to each utility's customers would outweigh the one-time costs associated with implementing the proposal. Therefore each utility will benefit. Thus, they submitted it is not appropriate to assign any costs or risks associated with their allocation to the shareholders of Westcoast.

Board Findings

5.2.14 As the Board has already noted, the initial inquiry into the allocation of the costs and benefits of the proposal will necessarily have to be detailed and will involve considerable time and effort on the part of all parties. The Board appreciates that a specific proposal cannot be presented until the utilities have begun to implement the plan. The Board therefore is not in a position to make any detailed findings on the allocation of costs and benefits of the proposal at this time.

5.2.15 The Board agrees with the principle espoused by the utilities that the cost allocation process should not create a disadvantage to either utility. The Board notes that neither utility is anticipated to lose as a result of the shared services proposal and that the cost allocation process will not alter this. The Board is of the view that the traditional principles of cost causality and cost-related rates should be used in the determination of the appropriate cost allocation of the shared department costs. The Board is also of the view that no one method will necessarily be appropriate for the allocation of costs of different departments, as the relevant cost drivers may differ among the shared departments.

5.2.16 The Board further notes that it will be increasingly difficult over time to estimate the benefits of the proposal, since there will be a need to estimate what the costs of operating separate departments would have been under circumstances that may have changed from those of the present. Thus the calculations of benefits will become increasingly hypothetical beyond the anticipated three-year horizon. Due to this and under the expectation that neither utility will lose under the proposal, the Board is prepared, provided the utilities continue to adhere to the principles identified in paragraph 5.2.2, to reject the submission that the costs of the shared departments should be allocated on the basis of the benefits to each utility. While there will clearly be some relationship between the net departmental costs and

the benefits, the Board believes that it is preferable to identify the appropriate cost drivers as early as possible in the integration process.

5.2.17 The Board notes Consumers Gas' concerns with respect to the sharing of costs and benefits with other Westcoast companies. There was little discussion of Westcoast's SBU announcement in the hearing. However, the Board notes that while the utilities' evidence listed the sharing of the storage and transportation operational area, upon inquiry it was revealed that Union planned to share personnel in the storage and transportation areas only in so far as they were involved in distribution. It is obvious that at this time Union does not plan to share all of its storage and transportation functions with Centra. This appears to be related to Westcoast's plan to implement SBUs. The Board does not have any evidence of the implications of this on the proposal. The Board directs the utilities to file evidence on the implementation of the SBU proposals at their next rates cases and to set out in detail the allocation of the costs and benefits within the Westcoast companies as they affect Centra and Union so that the Board may adequately assess the impact on each utility.

5.3 DEFERRAL ACCOUNTS

5.3.1 The utilities proposed to record the non-recurring costs of the implementation of the proposal in a deferral account for each utility. The amounts in each account would be amortized, based on the forecast benefits. The utilities stated that the amortization period had not yet been determined but anticipated an amortization period of approximately three years.

Positions of the Parties

5.3.2 IGUA and Board Staff supported the establishment of the deferral accounts as proposed. However, Board Staff submitted that, if the utilities

proceeded with a merger at the same time as the shared services costs were being amortized, the amortization period would have to be reviewed.

Board Findings

5.3.3 The Board finds that the establishment of deferral accounts in which the one-time costs of the implementation of the proposal will be recorded is appropriate. The Board approves the establishment of one deferral account for each utility for such purpose. However, the Board will not make a finding on the amortization period until it has received detailed proposals from the utilities.

5.3.4 The Board further finds that these costs should be segregated in the proposed deferral accounts so that the monitoring process and information needed for the ultimate disposition of balances will be readily available from the utilities' accounting records.

5.4 AFFILIATE TRANSACTIONS

5.4.1 Article 3 of the Centra Undertakings and Article 6.1 of the Union Undertakings provide that affiliate transactions shall require prior approval of the Board before they can proceed. In their Application the utilities sought the Board's approval to implement the proposal notwithstanding these provisions.

5.4.2 The Application specifically requested approval for affiliate transactions in respect of Centra's and Union's "distribution administration and marketing, management information systems, gas supply, storage and transportation, human resources, finance, accounting, legal, regulatory and environmental affairs".

5.4.3 In an answer to a transcript undertaking the utilities stated that they would not be sharing "field operations", which includes about 60 percent of the

approximately 3300 employees of the utilities. Also, during the course of the hearing it became apparent that the utilities would be sharing storage and transportation only to the extent that personnel in those departments were involved in distribution.

5.4.4 It was the utilities' evidence that Centra would continue to pay the Board-approved rates for Union's storage and transportation services and each utility would continue to have separate contracts with its gas suppliers.

Positions of the Parties

5.4.5 It was IGUA's understanding that, apart from the costs associated with the implementation of the proposal, the utilities would continue to require Board approval for affiliated transactions in excess of \$100,000.

5.4.6 Board Staff submitted that if the Board approves an exemption from the Undertakings in respect of the proposal, it would lead to a "blurring of what is an affiliate transaction between Centra and Union". It submitted that in particular storage contracts between Centra and Union should continue to be subject to Board approval.

5.4.7 In addition Board Staff argued that the utilities should report to the Board any transaction on the part of Centra, Union and/or Westcoast in the SBUs that might trigger an affiliate transaction under the Undertakings.

5.4.8 In reply the utilities agreed that affiliate transactions for storage that are governed by the Undertakings would continue to require Board approval.

Board Findings

5.4.9 The Board finds that the application for an exemption from the affiliate transaction Undertakings is very broadly worded and does not reflect the proposal as it was revealed at the hearing. For example the utilities are

not proposing that they share all storage and transportation services, contrary to the wording in the Application. The Board shares Board Staff's concern as to the potential for the "blurring" of the concept of an affiliate transaction between Centra and Union.

5.4.10 The Board is surprised that the utilities were not able to more precisely identify the transactions for which they were seeking an exemption. The Board is reluctant to grant the broad approval requested and does not do so.

5.4.11 On the other hand, the Board takes comfort from Counsel for Union's statement that "insofar as they're contracting with one [an]other for services that are provided to third parties as well, then I think the Board can continue to monitor them as they do now under the undertakings". The Board also takes comfort from the agreement of Counsel for Union that "it is the transactions similar to the current transaction with the environmental services manager on a larger scale that you are seeking pre-approval for".

5.4.12 Further, the Board notes that the utilities will be filing the details of their proposal before the conclusion of their next rates cases and the Board will have an opportunity to review the arrangements at that time.

5.4.13 The Board therefore approves a exemption from Article 3 of the Centra Undertakings and Article 6.1 of the Union Undertakings in respect of:

- the sharing between Union and Centra of personnel involved in the following functions: distribution administration and marketing, management information systems, human resources, finance, legal, accounting, regulatory and environmental affairs, and the portion of the gas supply, storage and transportation function that supports distribution activities;

- the sharing by Union and Centra of a single CEO; and
- the sharing by Union and Centra of their facilities as follows: gas control, management information systems, and field service training, in so far as these facilities are supporting the distribution operations of the utilities.

These arrangements will be subject to review by the Board once the utilities have provided the Board with detailed proposals.

5.4.14 The Board finds that all affiliate transactions other than those set out above will continue to be subject to the Undertakings and notes that the Applicants concur with this. This includes any transactions between Westcoast and the Distribution SBU and the Sales, Transportation and Storage SBU.

5.4.15 Except for the affiliate transactions approved above, the Board finds that Centra and Union shall continue to be managed and operated as two separate companies as contemplated in Article 6.3 of the Union Undertakings.

5.4.16 The Board also accepts the Applicants' evidence that Centra will continue to pay the Board-approved rates for Union's storage and transportation services and that each utility will continue to have separate contracts with its gas suppliers.

5.4.17 The Board directs the utilities to closely monitor the sharing of personnel and facilities in order to ensure that there is no cross-subsidization between each utility's distribution operations and the storage and transportation operations. In particular the Board is concerned that the sharing of the gas control operation may result in a cross-subsidization by Centra of the costs of Union's storage and transportation operations.

5.5 NEED FOR CHANGES TO UNDERTAKINGS

5.5.1 Pollution Probe urged that, as a condition of approval, the Board should recommend to the Lieutenant Governor in Council certain changes to the Undertakings.

Positions of the Parties

5.5.2 Citing Articles 6.3 and 15.1 of the Union Undertakings, Pollution Probe submitted that this Application involves a substantial variation in terms of the Undertakings. It further submitted that, given this, the Board may conduct a wide inquiry as to why such a dispensation ought to be granted, and whether it is in the public interest to do so. Pollution Probe submitted that, in particular, the Board may legitimately seek appropriate amendments to other parts of the Undertakings, or further commitments for the Applicants, to satisfy itself that the dispensation would result in an overall net public benefit.

5.5.3 The Applicants submitted that the Board has not been asked, and should not assume a mandate, to rewrite the Undertakings. They further submitted that the Application should not be considered a platform for the advancement of special interests that may be legitimately raised in other proceedings, but which are not germane to this proceeding. In their view, even if it were the case that an amendment to the Union and Centra Undertakings as recommended by Pollution Probe would provide greater scope for the advancement of environmental interests, a proposition with which the Applicants disagree, the question of how best to encourage the proper consideration of environmental issues before this Board is not an issue raised by the Application.

5.5.4 IGUA submitted that, while the Board can dispense with compliance with undertakings, the Board has no power to change the provisions of the undertakings without the consent of all of the signatories thereto. IGUA

further submitted that, even if the Board had the power to mandate changes to the Undertakings in this proceeding, there is no need to change the provisions thereof.

Board Findings

5.5.5 It is the Board's view that any changes to the Undertakings should be considered in the context of an overall review of the Undertakings. The Board contemplates that this will occur when, and if, the utilities apply pursuant to section 26 of the Act or for further relief under Article 6.3 of the Union Undertakings. In this regard the Board notes the assurance of Counsel for Centra that such an application will be made if a merger or amalgamation is contemplated. The Board is of the view that this overall review of the Undertakings would be done most appropriately in a public hearing.

5.5.6 The Board notes that at the time of Westcoast's purchase of Union, a public hearing under section 26 of the Act was not required and none was held. To date, this proceeding has been the only public inquiry into the nature of the relationship between Westcoast and Union and the only examination of the public interest aspects of that relationship. This inquiry has been limited to the proposal and the Application for exemption from some of the Undertakings. In addition, Centra and Westcoast entered into undertakings prior to Westcoast's purchase of Union and the two sets of Undertakings are not consistent. If a merger or amalgamation does not materialize after implementation of the proposal or, for other reasons an application under section 26 is not made, it may be that the Board will deem it necessary to recommend to the Lieutenant Governor In Council that a public hearing to review the Undertakings be held.

6. CONCLUSIONS, DIRECTIVES AND COSTS

6.1 CONCLUSIONS AND DIRECTIVES

6.1.1 The assessment of the public interest in this case is not simply a matter of whether there is a specific benefit or detriment. Rather, the Board, in arriving at its opinion, must weigh the various savings and benefits against the various costs of implementing the proposal. In coming to its conclusions on the proposal, the Board must decide whether there is an overall benefit or detriment to the public interest.

6.1.2 The Board finds that, subject to the following directives, the implementation of the proposal should proceed as described. Accordingly, the Board has approved certain affiliate transactions and the requested deferral accounts (paragraphs 5.4.13 and 5.3.3). The Board's directives are:

1. The Board directs the utilities to closely monitor the savings from the proposal so that the reasonableness of the net operating and maintenance costs can be reviewed in the course of the rates proceedings. In this review, the Board will examine the justification for the expenditure of any capital costs related to the proposal, including the sources of the savings due to the capital cost expenditures. (Paragraph 3.1.30)

2. The Board finds that the actual costs incurred must be closely monitored by Union and Centra, so that their reasonableness and eligibility for recovery in the utilities' rates can be determined in the relevant rates proceedings. (Paragraph 3.2.13)
3. The Board directs the Applicants to file a progress report with the Board every six months, or more frequently as decisions are made, describing the status of the analysis undertaken to date and the current status of the implementation plan for a merger. (Paragraph 4.1.13)
4. The Board directs the utilities to review the performance objectives of each member of the common management team and to ensure that the objectives of each of these managers reflect that manager's obligations to the ratepayers of each utility. (Paragraph 4.2.7)
5. The Board directs Centra to file a proposed procedure establishing a formal committee of independent directors following the requirements of Articles 2.3 to 2.5 of the Union Undertakings. (Paragraph 4.2.8)
6. The Board directs Centra and Union to file with the Board's Energy Returns Officer any reports of the committees of independent directors related to their monitoring and management of affiliate transactions. (Paragraph 4.2.8)
7. The Board directs each utility to bring forward and justify, at its respective rates cases, the changes in policy and practices resulting from the sharing of "best practices" and the development of consistent policies. (Paragraph 4.3.16)
8. The Board directs the utilities to file revised evidence in the rates cases incorporating the costs of the proposal as soon as possible but, in any event, before the conclusion of each rates case. (Paragraph 5.1.11)

in any event, before the conclusion of each rates case. (Paragraph 5.1.11)

9. The Board directs the utilities:

- to closely monitor the cost and time involved in managing the regulatory process to accommodate the proposal;
- to report the results of this monitoring and the problems that were encountered in the subsequent rates cases for each utility; and
- to work towards streamlining the regulatory process in order to lessen the associated cost and time involved in the each utility's rates case proceedings and to report on this planning in each subsequent rates case. (Paragraph 5.1.12)

10. The Board directs the utilities to file evidence on the implementation of the SBU proposals at their next rates cases and to set out in detail the allocation of the costs and benefits within the Westcoast companies as they affect Centra and Union so that the Board may adequately assess the impact on each utility. (Paragraph 5.2.17)

11. The Board finds that the implementation costs should be segregated in the proposed deferral accounts so that the monitoring process and information needed for ultimate disposition of balances will be readily available from the utilities' accounting records. (Paragraph 5.3.4)

12. The Board directs the utilities to closely monitor the sharing of personnel and facilities in order to ensure that there is no cross-subsidization between each utility's distribution operations and the storage and transportation operations. (Paragraph 5.4.17)

6.1.3 As noted above, this approval is an approval in principle only and if the savings do not materialize as anticipated, the Board intends to re-visit the shared services and common management proposal.

6.2 COSTS

6.2.1 Section 28 of the Act authorizes the Board, at its discretion, to fix or tax the costs of and incidental to any proceeding before it. The Board identified the matters that it generally considers in awarding costs in its Costs Report (E.B.O. 116). The Board addresses the awarding of costs in its Draft Rules of Practice and Procedure, amended January 1, 1993 ("the draft Rules") and has also issued Cost Award Guidelines. Draft Rule 44(a) sets out the criteria that the Board uses in awarding costs:

an award may be made to an intervenor who:

- i) has or represents a substantial interest in the proceeding to the extent that the intervenor or those it represents will be affected beneficially or adversely by the outcome;
- ii) participates responsibly in the proceeding; and
- iii) contributes to a better understanding of the issues by the Board;

...

6.2.2 The following intervenors applied for 100 percent of their reasonably incurred costs in these proceedings:

- Energy Probe
- IGUA
- Kitchener
- Municipal
- OHA
- Pollution Probe
- UGSWO

6.2.3 The Applicants did not object to any of the applications by intervenors for cost awards.

6.2.4 The Applicants argued that it would be inappropriate for Westcoast to bear any part of the costs of these proceedings but that such costs should be

paid by Union and Centra on an equal basis. A number of the intervenors agreed with that position.

Board Findings

6.2.5 The Board finds IGUA, Pollution Probe, UGSWO, OHA, Municipal, Energy Probe and Kitchener to be eligible for costs. Each of these intervenors represented a substantial interest in this proceeding, and their interventions were responsible and of assistance to the Board's understanding of the issues.

6.2.6 When amending its draft Rules, the Board stated: "Unless an intervenor has been found by the hearing Panel to have been deficient in satisfying the criteria cited [per E.B.O. 116 as quoted above] ... an intervenor upon application pursuant to the Board's Revised Draft Rules of Practice and Procedure (January 1, 1993) can expect to be awarded 100 percent of its reasonably incurred costs".

6.2.7 The Board awards the following intervenors 100 percent of their reasonably incurred costs, subject to the Board's assessment process:

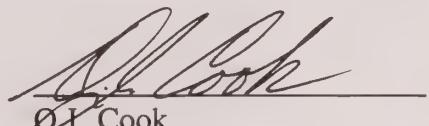
- IGUA
- Pollution Probe
- UGSWO
- OHA
- Municipal
- Energy Probe
- Kitchener

6.2.8 The Board directs Centra and Union to pay in equal proportions the costs awarded to the above intervenors upon receipt of the Board's cost orders.

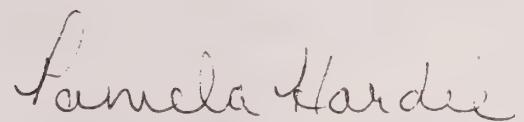
DECISION WITH REASONS

6.2.10 The Board further finds and directs that Centra and Union shall pay in equal proportions the Board's costs of and incidental to this proceeding immediately upon the receipt of the Board's cost order and invoice.

DATED AT TORONTO August 24, 1994.



O.J. Cook
Presiding Member



Pamela Hardie
P.W. Hardie
Member



J.C. Allan
Member



Ontario
Executive Council
Conseil des ministres

Order in Council
Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit :

WHEREAS Inter-City Gas Corporation, ICG Utilities (Ontario) Ltd. ("ICG Ontario") and ICG Utilities (Canada) Ltd. ("ICG Canada") gave undertakings to the Lieutenant Governor in Council on June 16, 1988 ("the 1988 Undertakings");

AND WHEREAS ICG Ontario requested an exemption from Article 5.4 (Diversification and Reorganization) of the 1988 Undertakings ("the Exemption") to allow it to invest in the 100 MW Cogeneration Project situated on the premises of Boise Cascade Ltd. in the Town of Fort Frances, Ontario ("the Cogeneration Project");

AND WHEREAS by Order in Council OC 1499/89 dated June 12, 1989, the Ontario Energy Board was directed to hold a public hearing and to report on certain matters respecting the Cogeneration Project including whether the Exemption should be granted;

AND WHEREAS the Ontario Energy Board held a public hearing on the Cogeneration Project and submitted its report and recommendations with respect thereto to the Lieutenant Governor in Council on December 21, 1989;

AND WHEREAS in consideration of the Lieutenant Governor in Council granting leave to permit the acquisition by Westcoast Energy Inc. ("Westcoast") and Westcoast Gas Inc. ("Westcoast Gas") of the control of ICG Canada through 2451417 Manitoba Ltd., ICG Canada, ICG Ontario, Westcoast, Westcoast Gas and 2451417 Manitoba Ltd. agreed to certain undertakings on March 23, 1990 ("the 1990 Undertakings") which included Article 5.4 from the 1988 Undertakings;

AND WHEREAS the Minister of Energy reaffirmed by way of a letter dated July 5, 1990 that the Ontario Energy Board be authorized to exempt ICG Ontario from Article 5.4 of the 1988 Undertakings and to allow ICG Ontario to own the Cogeneration Project with the condition that ICG Ontario and parent companies which control it make their best efforts to establish the Cogeneration Project in a legally and financially separate corporate entity by December 31, 1994 or such date as the Ontario Energy Board deems appropriate for the continued viability of the project and execute an undertaking to the Lieutenant Governor in Council to indemnify the regulated utility and its ratepayers;

AND WHEREAS the Ontario Energy Board has deemed it appropriate that the transfer of the Cogeneration Project should take place on or before December 31, 1994;

AND WHEREAS ICG Ontario, ICG Canada and 2451417 Manitoba Ltd. changed their names respectively to Centra Gas Ontario Inc. ("Centra Ontario"), Centra Gas Inc. ("Centra Gas") and Centra Gas Holdings Inc. ("Centra Holdings");

AND WHEREAS Centra Ontario, Centra Gas, Westcoast, Westcoast Gas and Centra Holdings have agreed to the revision of Article 5.4 of the 1990 Undertakings (formerly Article 5.4 of the 1988 Undertakings) and Article 5.5(b) of the 1990 Undertakings, these revised Undertakings to be known as the 1992 Undertakings;

AND WHEREAS Centra Ontario, Centra Gas, Westcoast, Westcoast Gas and Centra Holdings have agreed to comply with the 1992 Undertakings;

NOW THEREFORE leave is hereby granted to Centra Gas Ontario Inc. to allow it to invest in the Cogeneration Project situated on the premises of Boise Cascade Ltd. in the Town of Fort Frances, Ontario;

PROVIDED, HOWEVER, that such leave is subject to the condition that the signed 1992 Undertakings proposed by the Ontario Energy Board and attached to the letter from the Chairman dated January 15, 1992, as set out in Schedule I attached hereto, shall be executed and delivered to the Lieutenant Governor in Council to become effective on the date of this Order-in-Council.

Recommended Brian Charlton Concurred
Minister of Energy

Chair of Cabinet

Approved and Ordered July 22, 1992
Date

Lieutenant Governor

SCHEDULE I

UNDERTAKINGS OF CENTRA GAS ONTARIO INC.,
CENTRA GAS INC., WESTCOAST ENERGY INC.,
WESTCOAST GAS INC. AND CENTRA GAS HOLDINGS INC.

TO: His Honour The Lieutenant Governor in Council for the Province of Ontario

WHEREAS Inter-City Gas Corporation, ICG Utilities (Ontario) Ltd ("ICG Ontario"), and ICG Utilities (Canada) Ltd. ("ICG Canada"), gave undertakings to the Lieutenant Governor in Council, on June 16, 1988 ("the 1988 Undertakings");

AND WHEREAS ICG Ontario requested an exemption from Article 5.4 (Diversification and Reorganization) of the 1988 Undertakings ("the Exemption") to allow it to invest in the 100 MW cogeneration project situated on the premises of Ebise Cascade Ltd. in the town of Fort Frances, Ontario ("the Cogeneration Project");

AND WHEREAS by Order in Council OC 1499/89 dated June 12, 1989 the Ontario Energy Board was directed to hold a public hearing and to report on certain matters respecting the Cogeneration Project including whether the Exemption should be granted;

AND WHEREAS the Ontario Energy Board held a public hearing on the Cogeneration Project and submitted its report and recommendations with respect thereto to the Lieutenant Governor in Council on December 21, 1989;

AND WHEREAS in consideration of the Lieutenant Governor in Council granting leave to permit the acquisition by Westcoast Energy Inc. ("Westcoast") and Westcoast Gas Inc.

("Westcoast Gas") of the control of ICG Canada through 2451417 Manitoba Ltd., ICG Canada, ICG Ontario, Westcoast, Westcoast Gas and 2451417 Manitoba Ltd. agreed to certain undertakings on March 23, 1990 ("the 1990 Undertakings") which included Article 5.4 from the 1988 Undertakings;

AND WHEREAS the Minister of Energy reaffirmed by way of a letter dated July 5, 1990 that the Ontario Energy Board be authorized to exempt ICG Ontario from Article 5.4 of the 1988 Undertakings and to allow ICG Ontario to own the Cogeneration Project with the condition that ICG Ontario and parent companies which control it make their best efforts to establish the Cogeneration Project in a legally and financially separate corporate entity by December 31, 1994 or such date as the Ontario Energy Board deems appropriate for the continued viability of the project and execute an undertaking to the Lieutenant Governor in Council to indemnify the regulated utility and its ratepayers;

AND WHEREAS the Ontario Energy Board has deemed it appropriate that the transfer of the Cogeneration Project should take place on or before December 31, 1994;

AND WHEREAS ICG Ontario, ICG Canada and 2451417 Manitoba Ltd. changed their names respectively to Centra Gas Ontario Inc. ("Centra Ontario"), Centra Gas Inc. ("Centra Gas"), and Centra Gas Holdings Inc. ("Centra Holdings");

THEREFORE in consideration of the Lieutenant Governor in Council by Order in Council granting the Exemption, Centra Ontario, Centra Gas, Westcoast, Westcoast Gas and Centra Holdings ("the Signatories") do hereby agree to the revision of Article 5.4 of the 1990 Undertakings (formerly Article 5.4 of the 1988 Undertakings) and 5.5 (b) as set out below and further that all other aspects of the 1990 Undertakings as set out below remain binding.

1. Definitions

- 1.1 "affiliated transaction" shall be defined as a sale of goods, services or information, including gas purchases, or the conferring of a benefit between IOG Ontario and any associate or affiliate of ICG Ontario;
- 1.2 "affiliate" shall be defined as in subsection 1(1) and subsection 1(4) of the Business Corporations Act, 1990;
- 1.3 "associate" shall be defined as in paragraph 1(1) of the Business Corporations Act, 1990;
- 1.4 "market value of voting shares" shall mean 115 percent of the book value of such shares or the market value if there exists a public float of voting common shares in excess of 20 percent of the total of voting common shares;
- 1.5 "Centra Ontario" shall be defined as the body corporate known as Centra Gas Ontario Inc. or its successor company, which contains a regulated gas utility business with franchises in northern, central and eastern Ontario;
- 1.6 "related party" shall be defined as in section 3840 of the CICA Handbook;

2. Independence of Centra Ontario

2.1 Board of Directors of Centra Ontario

Centra Ontario will maintain on its Board of Directors at least two residents of its franchise area who, at the time of their election or appointment, have no pecuniary interest in Westcoast or its affiliates, and no business connection with Westcoast, its affiliates, Centra Ontario or any other natural gas distribution or transmission company;

2.2 Head Office of Centra Ontario

Centra Ontario's head office and main operating office shall be maintained in Ontario.

2.3 Change in Control

No action shall be taken by the parties hereto without first obtaining leave of the Lieutenant Governor in Council, that is intended to result in any person acquiring:

- (a) more than 20 percent of the voting shares of Centra Ontario, or
- (b) control of any person that owns or controls, directly or indirectly, more than 20 percent of the voting shares of Centra Ontario where such voting shares of Centra Ontario constitute a significant asset of such person.

The voting shares of Centra shall be deemed to constitute a "significant asset of such person" where the market value of the voting shares of Centra Ontario beneficially owned or controlled, directly or indirectly, constitutes 20 percent of the aggregate book value of the total assets of such person determined on a consolidated basis in accordance with generally accepted accounting principles.

Application for leave as required above, shall be made to the Ontario Energy Board.

3. Affiliated Transactions

Other than the sale and the transportation of gas by Centra Ontario, any affiliated transaction aggregating \$100,000 or more annually shall require prior approval of the Ontario Energy Board, which approval shall not be withheld if the transaction is shown to be of benefit to Centra Ontario or if a purchase takes place at or below fair market value or if a sale takes place at, or above, fair market value.

It shall not constitute a violation of this undertaking if Centra Ontario or the associate or affiliate did not know or could not have been reasonably expected to know that a transaction was an affiliated transaction.

4. Financial Integrity of Centra Ontario

4.1 Maintenance of Common Equity

There shall be retained in Centra Ontario such portion of the earnings of Centra Ontario as may be appropriate from time to time for retention by a regulated gas distribution utility, and to the extent that at any time such retained earnings of Centra Ontario are not sufficient to maintain the equity of Centra Ontario at the level approved or deemed appropriate by the Ontario Energy Board at a public hearing, Centra Ontario shall raise, and/or Westcoast and/or its affiliates shall provide, either directly or indirectly, sufficient additional equity capital for that purpose within 90 days (or such longer period as may be directed by the Ontario Energy Board), provided that if Westcoast and/or its affiliates provide all or part of such additional capital it shall do so on terms no less favourable to Centra Ontario as Centra Ontario could obtain directly in the capital market.

4.2 Intercorporate Indebtedness, Guarantees and Investments

Centra Ontario shall not hereafter loan or advance funds to or guarantee or become responsible for the indebtedness or obligations of any person, firm or affiliate, associate or subsidiary of Centra Ontario that is not regulated under the Ontario Energy Board Act, without prior approval of the Ontario Energy Board subject to the exceptions noted below. Centra Ontario shall not hereafter acquire or pay for securities of any person, firm or affiliate, associate or subsidiary of Centra Ontario that is not regulated under the Ontario Energy Board Act, without the prior approval of the Ontario Energy Board, subject to the following exceptions:

Exception 1

This Undertaking is subject to Section 7.27(7) of the Consolidated Deed of Trust and Mortgage of Northern and Central Gas Corporation Limited (now Centra Ontario) to Montreal Trust Company, as trustee, dated as of June 1, 1958, as amended to July 15, 1968, to expire May 1, 1998 (the "Deed") which sets out that:

7.27 (7) the Company (Centra Ontario) will not suffer or permit any Utility Subsidiary to incur or otherwise become or be liable in respect of any indebtedness, except: (a) unsubordinated indebtedness to the Company, (b) unsecured current indebtedness, as hereinafter defined, which shall have been incurred in the ordinary course of business and not as a result of borrowing: (c) indebtedness represented by unpaid dividends; (d) indebtedness secured by liens as permitted by, and within the limits provided in, Section 7.13 hereof; (e) in the case of QNG, debentures in principal amount not exceeding \$19,000,000 and maturing in 1985; (f) in the case of Winnipeg (GWG), debentures in principal amount not exceeding \$2,050,000 maturing in 1979 and in principal amount not exceeding \$1,695,500 maturing in 1980; and (g) in the case of any Mortgaged Utility Subsidiary which becomes such after April 1, 1968, funded indebtedness of such Mortgaged Utility Subsidiary included in and outstanding on the date of the Officers' Certificate delivered to the Trustee pursuant to the definition of Mortgaged Utility Subsidiary in Article 1 hereof upon the election of the Company to treat such Subsidiary as a Mongaged Utility Subsidiary;

Exception 2

This Undertaking does not cover or include normal treasury functions, such as a cash management program similar to the one which Centra Ontario previously participated in with Inter-City Gas Corporation and its subsidiaries, provided that, if such a cash management function is undertaken by Westcoast, or its affiliates, these companies will provide funds to, or invest cash for, Centra Ontario or its successor company, at a cost which is no higher than that at which Centra Ontario or its successor could raise such funds

and at rates which are no lower than those Centra Ontario could realize on its own short-term investments.

5. Regulatory Issues

5.1 Acquisition Costs

Westcoast shall be solely responsible for Westcoast's costs incurred in the acquisition of control of Centra Gas by Westcoast.

5.2 Assignment of the Boise Cascade Agreement

In the event that Boise Cascade Corporation is obliged to pay the penalty set forth in the Boise Cascade Agreement dated May 2, 1969, Centra Gas (and the companies which it controls) and Centra Ontario will allocate the monies in accordance with acceptable accounting principles, and subject to the approval of the Ontario Energy Board;

5.3 Management Costs

There shall be a fair and appropriate allocation amongst the parties of the shared or joint management, administrative and overhead costs.

5.4 Diversification and Reorganization

- (a) Centra Ontario itself, or through a person it controls, shall not hereafter engage or invest in any activity that is not subject to the regulation of the Ontario Energy Board; and
- (b) The signatories shall make reasonable efforts to accomplish a restructuring of Centra Ontario such that there will result a corporation whose assets, liabilities and activities relate only to the regulated natural gas distribution business in Ontario; and
- (c) Any signatory hereof may, from time to time, apply to the Ontario Energy Board for dispensation from compliance with sub-paragraphs (a) and (b) hereof. This dispensation must be granted before any binding contractual obligations are entered into by Centra Ontario, or any funds are expended by Centra Ontario other than for project feasibility assessment; and
- (d) The signatories shall transfer the assets and liabilities of the Cogeneration Project, including the assignment of all contracts relating to the Cogeneration Project, to a legally and financially separate corporate entity, which may be owned by Centra Ontario, on or before December 31, 1994. The signatories will submit to the Board their plan for complying with this undertaking before or no later than June 30,

1994. If the signatories determine that compliance with this undertaking would result in a significant cost or loss in value to the Cogeneration Project, the regulated natural gas distribution business in Ontario or to any of the signatories, the signatories may apply to the Board to retain the assets, liabilities and contractual obligations of the Cogeneration Project in Centra Ontario until the transfer can be accomplished without such significant cost or loss in value; and

- (e) Centra Ontario, Centra Gas, Centra Holdings and Westcoast Gas hereby agree to indemnify the ratepayers of the regulated natural gas distribution business in Ontario against all direct and indirect liabilities and additional costs, howsoever arising, from Centra Ontario's investment in the Cogeneration Project for the period that the Cogeneration Project is held by Centra Ontario.

5.5 Centra Gas Holdings Inc. Note

- (a) Westcoast will cause payments to be made when due under the promissory note issued by Centra Holdings and payable to Centra Ontario (the "Centra Holdings Note") including principal installments of \$4,148,000 on December 31 and in each year 1990 to 1999 inclusive, or on such accelerated basis as Centra Ontario and Westcoast may agree upon;

- (b) Should Centra Holdings fail to make timely payments as contemplated in (a) hereof, Westcoast shall maintain, without expense to Centra Ontario, a letter of credit or guarantee issued by a Canadian chartered Bank to support the Centra Holdings Note, the same to be maintained in force for so long as the Centra Holdings Note is held, directly or indirectly, by the corporation which operates the regulated natural gas distribution business in Ontario, presently operated by Centra Ontario;
- (c) Westcoast and Centra Ontario shall inform the Ontario Energy Board, through the Board's Energy Returns Officer, of the making of each payment contemplated in (a) hereof;
- (d) Westcoast or its affiliates shall not assign the Centra Holdings Note, or affect the priority of the note as a liability of Centra Holdings, without the approval of the Ontario Energy Board.

6. Public Hearing

Any approval of the Board provided for herein may be granted with or without public hearing as the Ontario Energy Board may determine.

7. Status of Undertaking

These undertakings supersede, replace and are in substitution for all prior undertakings given by ICG Ontario, ICG Canada, Inter-City Gas Corporation, Westcoast Gas and Westcoast to the Lieutenant Governor in Council.

8. Enforcement

The parties hereto agree to be bound by these undertakings.

These undertakings are terms and conditions of the leave and approval granted by the Lieutenant Governor in Council.

Effective Date

9. These undertakings become effective on the date of the Order in Council granting the Exemption.

Centra Gas Ontario Inc.

By: Bob Walker

Wayne de Boer

Centra Gas Inc.

By: Bob Lai

Barry

Centra Gas Holdings Inc.

By: Bob Lai

Barry

Westcoast Gas Inc.

By: Bob Lai

Barry

Westcoast Energy Inc.

By: Bob Lai

Barry

President & General Manager

Vice President, Regulatory Affairs & Planning

Vice President, Finance

Secretary

Vice President, Finance

Secretary

Vice President & Chief Financial Officer

Secretary

Senior Vice President & Chief Financial Officer

Vice President, General Counsel & Secretary



Ontario
Executive Council
Conseil des ministres

APPENDIX B

Order in Council
Décret

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit :

WHEREAS, Westcoast Energy Inc. has acquired a controlling interest in Union Energy Inc., which holds all the issued and outstanding shares of Union Gas Limited;

AND WHEREAS, Unicorp Canada Corporation, Union Enterprises Ltd., Union Shield Resources Ltd. and Union Gas Limited had, on May 13, 1988, executed and provided certain undertakings to the Lieutenant Governor in Council regarding the business and operations of Union Gas Limited;

AND WHEREAS, Westcoast Energy Inc., Union Energy Inc., 1001142 Ontario Inc. (Newco), Union Gas Limited and Union Shield Resources Ltd. have executed and provided the revised undertakings attached hereto;

AND WHEREAS, it is expedient that as a result of the change of ownership of Union Energy Inc. and the delivery of the new undertakings, Unicorp Canada Corporation, Union Enterprises Ltd., Union Shield Resources Ltd. and Union Gas Limited be released from the undertakings executed by them on May 13, 1988;

NOW THEREFORE, the attached undertakings of Westcoast Energy Inc., Union Energy Inc., 1001142 Ontario Inc. (Newco), Union Gas Limited and Union Shield Resources Ltd. be received and accepted, and that Unicorp Canada Corporation, Union Enterprises Ltd., Union Shield Resources Ltd. and Union Gas Limited be released from the undertakings they executed on May 13, 1988.

Recommended Brin Charlton Concurred
Minister of Energy

Francesca Chair of Cabinet

Approved and Ordered December 16, 1992

Date Francesca Lieutenant Governor
Certified to be a true copy.

Francesca Assistant Clerk, Executive Council

UNDERTAKINGS OF WESTCOAST ENERGY INC.,
10011142 ONTARIO INC., UNION ENERGY INC., UNION GAS LIMITED
AND UNION SHIELD RESOURCES LTD.

To: The Lieutenant Governor-in-Council for the Province of Ontario

WHEREAS Union Energy Inc. ("Union") holds all the issued and outstanding common shares of Union Gas Limited ("Gas");

AND WHEREAS 10011142 Ontario Inc. ("Newco") controls Union;

AND WHEREAS Westcoast Energy Inc. ("Westcoast") holds all the issued and outstanding common shares of Newco;

AND WHEREAS Gas holds preference shares in Union Shield Resources Ltd. ("Resources"), a wholly-owned subsidiary of Union;

Westcoast, Newco, Union, Resources and Gas do hereby agree to the following undertakings:

1.0 Definitions

The following words or expressions shall have the following meanings:

- 1.1 "Affiliated Transaction" shall be defined as a sale of goods, services or information or the conferring of a benefit between Gas and any Associate or Affiliate of Gas as the case may be;
- 1.2 "Affiliate" shall be defined as in subsections 1(1) and 1(4) of the Business Corporations Act (Ontario);
- 1.3 "Associate" shall be defined as in subsection 1(1) of the Business Corporations Act (Ontario);
- 1.4 "Control" shall be defined as in subsection 1(5) of the Business Corporations Act (Ontario);
- 1.5 "Economic Dependence" shall be defined as in section 3840 of the CICA Handbook;

1.6

"Independent Director" shall mean a person who is not:

- (a) an employee or officer of Gas or a person retained by Gas;
- (b) an employee, officer or director of an Affiliate or Associate of Gas;
- (c) a person in a position of Economic Dependence;
- (d) a person who is a Related Party with the exclusion of a person who is a Related Party solely by reason of being a Director of Gas; or
- (e) a person who owns or controls, directly or indirectly, voting shares of Gas carrying more than 10 percent of the votes attached to all the issued and outstanding voting shares of Gas;

and "Independent" shall have a corresponding meaning;

1.7

"Market value of voting shares" shall mean 115 percent of the book value (determined by the equity method of accounting) of such shares or the market value if there exists a public float of voting common shares in excess of 20 percent of the total of voting common shares;

1.8

"Related Party" shall be defined as in section 3840 of the CICA Handbook.

2.0

Gas' Board of Directors and Auditors

2.1

At all times, at least one third of the Board of Directors of Gas shall be Independent Directors who, at the time of their election or appointment, were residents of Gas' franchise area.

2.2

The auditors of Gas shall confirm to the Ontario Energy Board, in writing, on the appointment of a new Director to the Board of Directors of Gas and on an annual basis that in their opinion one third of the Board of Directors of Gas are Independent Directors.

2.3

At all times, Gas shall have a special committee of directors the members of which shall be Independent Directors (the "Committee").

2.4

No Affiliated Transaction shall be entered into by Gas without the approval of the Committee.

2.5 The Committee shall monitor the compliance by Gas with these undertakings.

2.6 At all times, Gas shall have an audit committee a majority of the members of which shall be Independent Directors.

2.7 The maximum representation on the board of directors of Gas by persons who are directors or officers of Centra Gas Ontario shall be the greater of (i) two in number or (ii) 25% of the board of directors of Gas.

2.8 The auditors of Gas shall be and shall continue to be different from those of Westcoast as long as it directly or indirectly Controls Gas.

3.0 Head Office of Gas

3.1 The head office of Gas shall remain in Chatham, Ontario.

4.0 Employment Level

4.1 There will be no reduction in employment levels of Gas as a direct result of the acquisition of Union by Westcoast.

5.0 Change of Control

5.1 Leave of the Lieutenant Governor-in-Council is required for any action that is intended to result or does result in any person acquiring:

- (a) more than 20 percent of the voting shares of Gas, or
- (b) Control of any person, that owns or controls, directly or indirectly, more than 20 percent of the voting shares of Gas where such voting shares constitute a significant asset of such person.

Application for leave as required above shall be made to the Ontario Energy Board which thereafter shall report its opinion to the Lieutenant Governor-in-Council.

5.2 The voting shares of Gas shall be deemed to constitute a "significant asset" of a person where the market value of the voting shares of Gas beneficially owned or controlled, directly or indirectly, constitutes 20 percent or more of the aggregate book value of the total assets of such person determined on a consolidated basis in accordance with generally accepted accounting principles.

5.3 Subject to section 26 of the Ontario Energy Board Act, leave of the Lieutenant Governor-in-Council under paragraph 5.1 shall not be required for any non-arms length transaction involving the direct or indirect acquisition of shares of Gas if at the conclusion of the transaction, Westcoast directly or indirectly owns or exercises direction or control over shares of Gas carrying (in the aggregate) more than 50 percent of the votes for the election of directors of Gas. If such transaction were otherwise subject to paragraph 5.1 hereof approval of the Ontario Energy Board shall be required. In connection with the acquisition of all of the outstanding common shares of Union, Newco may amalgamate with Union, may transfer its shares to a newly incorporated wholly-owned subsidiary which may amalgamate with Union, or may enter into a similar reorganization without such approval being required.

6.0 Affiliated Transaction

6.1 Other than the sale, transportation and storage of gas by Gas in the ordinary course of business, any Affiliated Transaction aggregating \$100,000 or more annually shall require prior approval of the Ontario Energy Board, which approval shall not be withheld if the transaction is shown to be of benefit to Gas and not to the detriment of any of its customers or if a purchase takes place at or below fair market value or if a sale takes place at or above fair market value.

6.2 It shall not constitute a violation of this undertaking if Gas did not know or could not have been reasonably expected to know that a transaction was an Affiliated Transaction.

6.3 Gas and Centra Gas Ontario shall be managed and operated as two separate companies, provided that, where activities can be combined to produce efficiencies and/or lower costs, one of the companies may provide services to the other company and charge a fair proportion of the costs incurred. Any such provision of services aggregating \$100,000 or more in annual value shall require prior approval of the Ontario Energy Board, as required under this Article 6.

7.0 Maintenance of Common Equity

7.1 There shall be retained in Gas such portion of the earnings of Gas as may be appropriate from time to time for retention by a regulated gas distribution utility, and to the extent that at any time such retained earnings of Gas are not sufficient to maintain the equity of Gas at the level approved or deemed appropriate by the Ontario Energy Board at a public hearing, Gas shall raise, and/or Westcoast and/or its Affiliates shall provide, either directly or indirectly, sufficient additional equity capital for

that purpose within 90 days (or such longer period as may be directed by the Ontario Energy Board), provided that if Westcoast and/or its Affiliates provide all or part of such additional capital it shall do so on terms no less favourable to Gas than Gas could obtain directly in the capital markets.

7.2 The obligations of Westcoast and its Affiliates as set out in paragraph 7.1 shall terminate if Westcoast and its Affiliates, in the aggregate, cease to own at least 50 percent of the outstanding voting shares of Gas.

8.0 Research and Development

8.1 Westcoast will support the maintenance of the current and announced levels of research and development (R&D) expenditures in Gas, and will encourage and support an increase in the R&D activities of Gas in areas where this may provide benefits to Gas' customers.

8.2 Westcoast will support the retention of the Gas commitment to the establishment and orderly growth of a co-ordinated gas industry program of technology development to be managed by Gas Technology Canada.

8.3 Westcoast will cause Gas to promote the commercial production in Ontario of equipment and systems resulting from this R&D.

8.4 Westcoast will encourage a particular emphasis by Gas on R&D work related to the efficient use of natural gas.

9.0 Energy Efficiency

9.1 Westcoast will encourage Gas to adopt an aggressive approach to energy efficiency.

9.2 Westcoast will through Union Gas:

- (a) promote efficient energy use throughout the Gas franchise area and will attempt to co-ordinate these programs with Ontario Hydro, but will proceed to promote such use regardless of arrangements with Ontario Hydro;
- (b) promote the installation of high-efficiency residential gas furnaces and boilers in new housing, and as replacements in existing housing;
- (c) promote efficient gas-fired water-heating systems in commercial and industrial applications;

- (d) improve the efficiency of natural gas utilization by Ontario manufacturing and processing companies, by advising them and demonstrating the performance of advanced commercially available gas utilization technologies; and
- (e) work with Canadian gas appliance manufacturers in the development and promotion of energy-efficient appliances.

10.0 Transactions with Resources

10.1 Resources shall not take any action which will have the result of reducing the realizable value of Resources net of senior ranking obligations to less than 112.5 percent of the stated value of the Preference Shares of Resources held by Gas unless Union shall have provided sufficient security as is deemed appropriate by the Ontario Energy Board for the preference shares.

10.2 Westcoast shall guarantee the payment of the dividends on the Preference Shares by Resources to Gas for so long as the Preference Shares are held by Gas.

11.0 Intercorporate Indebtedness, Guarantees and Investments

11.1 Gas shall not hereafter:

- (a) loan to;
- (b) advance funds to;
- (c) guarantee or become responsible for the indebtedness or obligations of; or
- (d) acquire or pay for securities of;

any person that is not regulated under the Ontario Energy Board Act, without prior approval of the Ontario Energy Board.

Exception 1: This Undertaking does not cover or include normal treasury functions, such as a cash management program, provided that, if such a cash management function is undertaken by Westcoast, or its Affiliates, these companies will provide funds to, or invest cash for, Gas at a cost which is no higher than that at which Gas could raise such funds and at rates which are no lower than those Gas could realize on its own short-term investments.

Exception 2: Gas may acquire the common shares of Resources and may wind-up or effect a similar reorganization of Resources with the result that the Preference Shares of Resources are replaced with preference shares of Westcoast having similar terms and conditions, which preference shares may be acquired by Resources at any time in compliance with Article 10 hereof.

11.2 The preference shares of Westcoast issued in accordance with Exception 2 to paragraph 11.1 shall be redeemed on January 1, 1995 unless it is determined that there is a financial advantage to Gas to continue to hold such preference shares and the Ontario Energy Board so approves.

11.3 Westcoast shall indemnify Gas for any costs or liabilities which are created, or assumed by Gas, as a result of the reorganization referred to in Exception 2 to paragraph 11.1 and which costs or liabilities are not referred to in Article 19. This undertaking includes, without limiting the generality of the foregoing, any past, present or future contingent or actual liabilities (whether known or unknown) of Resources as may be assumed by Gas.

12.0 Diversification

12.1 Gas shall not hereafter engage or invest in any activity, directly or through a person it controls, that is not subject to the regulation of the Ontario Energy Board, without the prior approval of the Ontario Energy Board.

13.0 Management Costs

13.1 There shall be a fair and appropriate allocation among the parties of the shared or joint management, administrative and overhead costs.

14.0 Prior Undertakings

14.1 These undertakings supersede, replace and are in substitution for all prior undertakings of Resources, Gas and Union.

15.0 Dispensation

15.1 The Ontario Energy Board may dispense, in whole or in part, with future compliance by any of the signatories hereto with any obligation contained in an undertaking.

16.0 Public Hearing

16.1 Any approval or report of the Ontario Energy Board provided for herein may be granted or made with or without a public hearing as the Ontario Energy Board may determine.

17.0 Monitoring

17.1 At the request of the Minister of Energy or the Ontario Energy Board, Westcoast and its Affiliates will provide to the Minister or the Ontario Energy Board any information the Minister or the Ontario Energy Board may require related to compliance with these undertakings.

18.0 Involvement of Gas

18.1 The Ontario Energy Board will decide whether to allow the recovery from Gas' customers of any costs incurred by Gas in pursuing any activities related to the fulfilment of these undertakings.

19.0 Acquisition and Reorganization Costs

19.1 Gas shall not include in its rate base or recover in its cost of service any of the acquisition or reorganization costs incurred directly in connection with the acquisition of any or all of the shares of Union by Westcoast or a subsidiary of Westcoast or in connection with the reorganization referred to in Exception 2 to paragraph 11.1.

19.2 Gas shall not include in its rate base or recover in its cost of service any costs or liabilities which are directly or indirectly traceable to the creation, existence or cancellation of the Preference Shares of Resources or any preference shares of Westcoast or any related dividend payments or capital repayments.

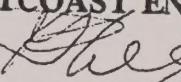
20.0 Enforcement

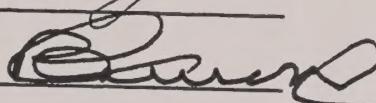
20.1 The parties hereto acknowledge that there has been consideration exchanged for the receipt and giving of the undertakings and agree to be bound by these undertakings.

Any proceeding or proceedings against Westcoast or Union to enforce these undertakings may be brought and enforced in the courts of the Province of Ontario, and Westcoast, its Affiliates and Associates hereby submit to the jurisdiction of the courts of the Province of Ontario in respect of any such proceeding or proceedings. It is agreed that Gas is an agent of Westcoast, its Affiliates and Associates for the purpose of service of any process and that personal service of documents on Gas will be sufficient to constitute personal service on Westcoast, its Affiliates and Associates.

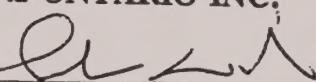
Signed at Vancouver this 27th day of November 1992.

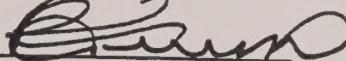
WESTCOAST ENERGY INC.

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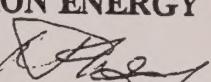
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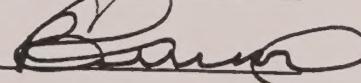
1001142 ONTARIO INC.

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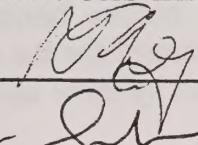
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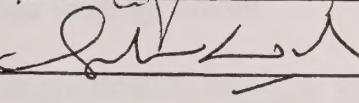
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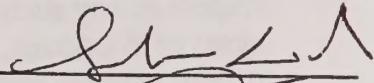
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